

AMS/FAST CHANGE REQUEST (CR) COVERSHEET

Change Request Number: 21-23

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Title: Small Business Changes - Guidance

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Policy and Guidance: (check all that apply)

- ☐ Policy
- ☒ Procurement Guidance
- ☐ Real Estate Guidance
- ☐ Other Guidance
- ☐ Non-AMS Changes

Summary of Change: (1) Incorporate Woman Owned Small Business (WOSB) and Historically Underutilized Business Zone (HUBZone) small business set-asides; (2) increasing the small business reserve threshold from \$150K to \$250K; (3) Increase of noncompetitive SEDB 8(a) threshold from \$22M to \$25M (4) Increase of minimum subcontracting plan threshold from 700K to 750K (5) Removing bonding assistance guidance from AMS; and (6) Administrative changes.

Reason for Change: (1) Expand the FAA's acquisition strategy options as well as increase the FAA's ability to meet its socioeconomic small business goals; (2) (3), and (4) Procurements that can leverage the efficiencies already established for existing thresholds as well as increase the FAA's ability to meet its socioeconomic small business goals; (5) Bonding assistance guidance to be more appropriately located on the FAA Small Business website; and (6) Administrative update.

Development, Review, and Concurrence: Small Business Program (AAP-20), Contracts, Legal, and Procurement Policy

Target Audience: Program Office and Contracts personnel

Briefing Planned: No.

ASAG Responsibilities: None.

Section / Text Location: T3.2.2.4, T3.2.2.5, T3.2.3; and T3.6.1

Procurement Guidance - ~~10/2020~~1/2021

The redline version must be a comparison with the current published FAST version.

☒ I confirm I used the latest published version to create this change / redline

or

☐ This is new content

Links: <https://fast.faa.gov/docs/procurementGuidance/guidanceT3.2.2.4.pdf>

<https://fast.faa.gov/docs/procurementGuidance/guidanceT3.2.2.5.pdf>

<https://fast.faa.gov/docs/procurementGuidance/guidanceT3.2.3.pdf>

<https://fast.faa.gov/docs/procurementGuidance/guidanceT3.6.1.pdf>

Attachments: Redline and final documents.

Other Files: N/A.

Redline(s):

Section Revised: T3.2.2.3 – Complex Source Selection

Procurement Guidance - (~~10/2020~~1/2021)

T3.2.2.3 - Complex Source Selection Added 9/2020

A Complex Source Selection Method Added 9/2020

1 General Revised 9/2020

2 Source Selection Team Roles and Responsibilities Added 9/2020

3 Security of Source Selection Information Added 9/2020

4 Evaluation Plan Added 9/2020

5 Selection Methodology Added 9/2020

6 Screening Information Request (SIR) Added 9/2020

7 Communications with Offerors Added 9/2020

8 Evaluation Factors Added 9/2020

9 Evaluation Added 9/2020

10 Selection and Award Added 9/2020

11 Debriefing of Offerors Added 9/2020

12 Oral Presentations Added 9/2020

B Other Source Selection Considerations Added 9/2020

1 Public Announcement and Announcement of Competing Offerors Added 9/2020

2 Past Performance Added 9/2020

3 Cancelling a Screening Information Request Added 9/2020

4 Section 508 of Rehabilitation Act Added 9/2020

5 Spare Parts Added 9/2020

6 Supplier Process Capability Evaluation and Appraisal Added 9/2020

7 Tiered Evaluation ~~Added 9/2020~~ Revised 01/2021

8 Qualified Vendors List (QVL) Added 9/2020

9 Two Phase Source Selection Added 9/2020

C Clauses Revised 9/2020

D Forms Revised 9/2020

1 Section 508 Checklist Added 9/2020

E Appendix Added 9/2020

1 Guide for Establishing a Qualified Vendors List (QVL) Added 9/2020

2 Past Performance Samples for Products, Services, and Construction Added 9/2020

2.1 Sample 1 - Past Performance Instructions Added 9/2020

2.2 Sample 2 - Past Performance Evaluation Factors Added 9/2020

2.3 Sample 3B - Past Performance Questionnaire Added 9/2020

2.4 Sample 3C - Business Management Past Performance Summary Added 9/2020

2.5 Sample 4 Survey Form Added 9/2020

T3.2.2.3 - Complex Source Selection Revised 9/2020

A. Complex Source Selection Method Added 9/2020

1. General Revised 9/2020

- a. *Purpose.* AMS Policy Section 3.2.2.3 outlines requirements for source selection. This section contains information about processes and techniques for conducting a competitive complex source selection. The Contracting Officer (CO) uses business judgment to tailor source selection based on factors such as complexity, dollar value, urgency, and resources available.
- b. *Procurement Integrity.* The Procurement Integrity Act applies to personnel involved in source selection. This Act and other similar statutes and regulations impose stringent requirements for safeguarding source selection and contractor proposal information, and other integrity issues. There are civil and criminal penalties for violating these requirements. All personnel involved in the source selection process must maintain the integrity of the procurement, and must understand the prohibitions and certification requirements of the Act and similar statutes and regulations. Any questions or other issues regarding procurement integrity are directed to the legal counsel assigned to the source selection. (See AMS Guidance T3.1.8)
- c. *Bias or Conflict of Interest.* Personnel involved in the source selection must not have any bias or conflict of interest that would affect the source selection. Financial interests in offerors or employment discussions with offerors are examples of conflicts of interests that preclude an employee from participating in a source selection.

2. Source Selection Team Roles and Responsibilities Added 9/2020

The responsibilities described below are guidelines to help ensure successful source evaluation and selection. The source selection team managing the procurement may be comprised of the Source Selection Official, Source Evaluations Team, Contracting Officer, Product or Service Team Lead or Director of the Requiring Service Organization, nongovernmental evaluators and advisors, and support personnel. The composition of the source selection team will vary based on the size and complexity of the procurement.

- a. *Source Selection Official.* The Product or Service team lead or Director (or equivalent position) of the requiring organization is the source selection official (SSO) for a procurement under an investment program subject to the Joint Resources Council (JRC) process (unless the JRC otherwise designates an SSO). For procurements not subject to the

JRC investment- decision process, the CO is the SSO. The SSO's responsibilities include the following:

- (1) Assure team competence, cohesiveness, and effectiveness;
- (2) Approve evaluation plans and assure the evaluation conforms to the plan and to the stated evaluation criteria; and
- (3) Make down-select decisions and assume full authority to select the source for award.
- (4) Ensure the selection process is conducted properly and according to applicable policies and laws;
- (5) Establish the Source Evaluation Team (SET) and ensures the team has the skills, expertise, and experience to perform the evaluation;
- (6) Ensure actual or apparent conflicts of interest are avoided; Ensures premature or unauthorized disclosure of source selection information is avoided;
- (7) Concur with the CO's decision to release the SIR (if the SSO is other than the CO); and
- (8) Make the final source selection decision for an award, and ensures the rationale is documented before contract award.

b. *Source Evaluation Team (SET)* . Source evaluation is a multi-disciplined, team effort. As appropriate, the team includes representatives from functional areas such as contracting, program/technical, legal, logistics, and user organizations. The size and composition of the SET varies, depending on the nature of requirement. Whether the team is large or small, it is structured to ensure teamwork, unity of purpose, and appropriate communication among the team members throughout the process. A key to selecting personnel is identifying experience, education, and business and technical skills required for the evaluation. Required skills and experience are defined with enough flexibility to allow for the substitution of training for experience. The source evaluation team properly and efficiently performs source evaluation, and supports the source selection decision and related activities. Their responsibilities include the following:

- (1) Draft all SIRs;
- (2) Formulate the source evaluation plan;
- (3) Review existing lessons learned reports that provide meaningful insight into the procurement;
- (4) Ensure an in-depth review and evaluation of each submitted screening document against FAA requirements and stated evaluation criteria;
- (5) Prepare the evaluation report (including recommendations, if applicable), using sound business judgment, to assist the SSO make down selection and/or award decisions;
- (6) Oversee all procedural and administrative aspects of the procurement;
- (7) Select advisors to assist the team in its evaluation, if required;
- (8) Prepare documentation for the SSO's decision rationale, if requested by the SSO; and
- (9) Participate in all debriefings;

c. *Contracting Officer*. The CO's responsibilities include the following:

- (1) Serve as the SSO for procurements not subject to the JRC investment-decision process;
- (2) Ensure, when applicable, conflict of interest documentation is obtained from all source selection team members; with legal counsel, determine if any conflicts or apparent conflicts of interests exist; and if so, resolve them;
- (3) Ensure source selection team members are briefed on sensitivities of the source selection process to include but not limited to the following:
 - the prohibition against unauthorized disclosure of information (including

their responsibility to safeguard proposals and any documentation related to the source selection team proceedings);

- requirements concerning conflicts of interest; and
- ensure source selection team members provide nondisclosure of information statements

(4) Coordinate communications with industry and conduct all debriefings;

(5) Control all written documentation issued to industry;

(6) Lead screening, selection, and debriefing phases of source selection;

(7) Issue letters, public announcements, SIRs, SIR amendments, and other procurement documents; and

(8) Ensure the contract is signed by a contractor's representative with the authority to bind the contractor; with legal counsel, ensure all contractual documents comply with applicable laws, regulations, and policies.

d. *Product or Service Team Lead or Director of the Requiring Organization.* The product or service team lead or Director's (or equivalent position) responsibilities include the following:

(1) Serve as SSO if the procurement is subject to the JRC investment-decision process (unless otherwise designated by the JRC);

(2) Assure FAA's program needs are acquired through the appropriate source selection process;

(3) Assure SIRs include adequate definition of requirements; and

(4) Assure qualified technical evaluators, if required, assist the source evaluation team in the evaluation.

e. *Advisors.* The source evaluation team may appoint advisors to provide specialized expertise and guidance not otherwise available on the team.

- f. *Nongovernmental Evaluators and Advisors.* The source evaluation team may use nongovernmental personnel as evaluators or advisors. Nongovernment personnel must comply with FAA's conflict of interest and nondisclosure of information policies. The SIR must include notice of any nongovernmental participation.
- g. *Support Personnel.* Once the primary evaluation team is identified, additional support personnel may be desired or required. Examples of such personnel include administrative support, librarian/document-control personnel, and information technology support.

3. Security of Source Selection Information Added 9/2020

- a. *Required Certificates.* The SSO and each SET member (including support personnel and advisors) must sign nondisclosure of information and conflict of interest certificates. (See AMS T3.1.6.A.2 Requirement for an Agreement Regarding Non-Disclosure of Information).
- b. *Administrative Considerations.* Each procurement varies, but administrative needs may include private facilities for evaluators and discussions with offerors, securable storage space for source selection materials, and other items such as computers, special software, phones, copiers, etc.
- c. *Handling Source Selection Information.*

- (1) SET members must handle proposal and evaluation material in a manner consistent with “For Official Use Only” or, as appropriate, a higher security classification. The SET establishes sufficient safeguards to protect the material whether it is in their possession or it is being disseminated, reproduced, transmitted, or stored. Additionally, procedures are established for proper disposal of the material when it is no longer required. (See AMS Procurement Guidance T3.13.1.A.7, Records Retention, and FAA Order 1350.15C Records Organization, Transfer and Destruction Standards).
- (2) The Procurement Integrity Act precludes individuals from knowingly disclosing source selection information and contractor bid or proposal information before award of a contract to which the information relates. The SSO may, however, authorize release of source selection information after the SIR is issued but before contract award to other authorized Government personnel who have signed a non-disclosure statement, provided the release would not jeopardize the integrity or successful completion of the procurement.

d. *Security Responsibilities.* All SET members are responsible for the security of source selection information. In complex source selections, it may be beneficial to designate members of the SET to oversee and perform security control functions. Security procedures may also be needed for the physical facilities where source selection occurs, such as a sign in and out log, identification to access the area, visitor (e.g. maintenance/service personnel) control, or key or card control access. A security briefing for the SET may be used to emphasize that each member understands the following:

- Each member is responsible for security of the evaluation and proposal materials and other source selection and proprietary information related to the procurement;
- Each member is knowledgeable of, and will adhere to, governing security procedures and regulations;
- Each member does not discuss, communicate, or otherwise deal with matters related to the source selection with any individual not assigned by the SSO, and then only within appropriately secure areas; and
- Each member shall challenge any apparent unauthorized person within the physical location of the evaluation.

4. Evaluation Plan Added 9/2020

The evaluation plan outlines the people, schedule, process, criteria and other information relevant to evaluating offeror responses to a SIR, and the basis for selecting an offeror for award. It is approved by the SSO, Evaluation Team Lead, CO, and Legal before receiving responses to a SIR requesting screening or qualification information. The evaluation plan is source selection sensitive information, so it must not be disclosed to anyone not authorized by the SSO to receive the information. The size and detail of the evaluation plan is based on the complexity of the procurement, but at a minimum it includes the following:

- Name of the SSO and SET members;
- Evaluation factors, relative importance of factors, and standards for rating offerors against the factors; and
- Basis for selection and award

5. Selection Methodology Added 9/2020

Designing a procurement strategy includes an effective evaluation methodology. Depending

on the circumstances, it may be in FAA's best interest to either do the following:

- (1) *Award to best value offeror.* Under this method, both cost/price and non-cost/price factors are assessed based on the evaluation criteria, and the SSO selects the offeror proposing a combination of these factors representing the best value to FAA. The SSO considers non-cost strengths and weaknesses, risks, and cost/price for each offeror and applies business judgment to select the offeror representing the best value.
- (2) *Award to the lowest-priced, technically acceptable offeror.* This method may be the best value when FAA would not realize any value from a proposal exceeding minimum technical requirements. The SIR establishes certain standards that an offeror must meet to be considered technically acceptable. An offeror does not receive any additional credit for exceeding the established standards. The award is then made to the lowest-priced, technically acceptable offeror.

6. Screening Information Request (SIR) Added 9/2020

a. *Purpose.* The FAA obtains information and offers from vendors through a SIR. The SIR includes information necessary for offerors to understand what FAA is buying, what information to provide, and how responses will be evaluated. The success of a procurement is directly linked to the quality of the SIR. A well-written SIR includes the following:

- Facilitates a fair competition;
- Limits criteria to differentiators that add value;
Clearly details information required from vendors;
Clearly identifies evaluation and award criteria; and
- Conveys a clear understanding of FAA's requirements.

b. *The SIR Process.* For a given procurement, FAA may make a selection decision after one SIR, or may have a series of SIRs (with a screening decision after each one) to arrive at the selection decision. This process depends on the types of products, services, or real property to be acquired and the specific source selection approach. Generally, when multiple SIRs are contemplated, the initial SIR requests general information, and subsequent SIRs requests successively more specific information. Initial SIRs need not state firm requirements, thus allowing FAA to convey its needs to offerors in the form of desired features, or other appropriate means. Firm requirements ultimately are established in all contracts.

c. *SIR Contents.* Each SIR contains the following information:

- Paperwork Reduction Act number on the cover page;
- A statement identifying the purpose of the SIR (request for information, request for offer/solicitation for offer, establishment of a QVL or screening);
- A definition or statement of need or requirements;
- A request for specific information (with specific page and time limitations, if applicable);
- A closing date stating when submittals must be received in order to be considered or evaluated;
- Evaluation criteria (and relative importance, if applicable);
- A statement informing offerors how communications with them will be conducted during the screening; and
- An evaluation/procurement schedule (including revisions, as required).

d. *Categories of SIRs.*

(1) *Qualification Information.* Qualification information, used to qualify vendors and establish qualified vendor lists (QVLs), are requested when a resultant QVL will be used for multiple FAA procurements. Qualification information screens those vendors meeting FAA's stated minimum capabilities / requirements to provide a particular product or service. Once qualification information is requested, received, and evaluated according to the evaluation plan, a QVL is established for the given product/service and vendors meeting FAA's qualification requirements are listed on the QVL. (See AMS Procurement Guidance T3.2.2.3.B.8 for more information on QVLs.)

(2) *Screening Information.* Screening information allows FAA to determine which offeror(s) are most likely to receive the award, and ultimately which offeror(s) will provide FAA with the best value. The screening information requested in the SIR should focus on information that directly relates to the key differentiators for the procurement.

(3) *Request/Solicitation for Offer.* A request/solicitation for offer is a request for an offeror to formally commit to provide the products, services, or real property required by FAA under stated terms and conditions. The response to the request/solicitation for offer is a binding offer, which is intended to become a binding contract if signed by the CO.

The request/solicitation for offer may take the form of a SIR, a proposed contract, or a purchase order.

e. *Changes in SIR Requirements.* If FAA's requirements change after release of a SIR, then all offerors competing at that stage are advised of the change(s) and allowed to update their submittals accordingly. The SSO may waive a requirement at any time after release of a SIR, without notifying other offerors, if the SIR states offeror specific waiver requests will be considered, and the waiver does not affect a significant requirement that changes the essential character or conditions of the procurement.

f. *Common Problems.*

(1) *Inconsistency among the SIR and related documents.* Having the SIR and related documents to be aligned is critical. This is particularly important for the evaluation plan and the SIR to be consistent.

(2) *Inconsistency within the SIR.* Avoiding inconsistencies between the description of FAA's requirements, instructions on how to prepare a proposal, and information related to the evaluation factors is important. These inconsistencies may be caused by different groups of people developing the different SIR sections without proper coordination. Such inconsistencies can result in less advantageous offers, necessitate changes/amendments to the SIR, cause delays, lead to offerors losing confidence in the process, or result in litigation.

(3) *Requesting Too Much Information from Vendors.* The instructions for preparing and submitting proposals focus on requesting only information necessary for the evaluation. The SIR requirements, each evaluation factor and subfactor, and the SIR preparation instructions are linked. Request only the essential information needed to evaluate SIRs against the evaluation factors and subfactors and do not ask for information that will not be evaluated. Instructions that require voluminous information can cause potential offerors to forego responding in favor of a less costly business opportunity. Excessively large proposals may increase the time and costs associated with the evaluation. Proposal page limitations are encouraged, but they need to be clearly defined and tailored to the needs of the acquisition. Focus exclusively on differentiators; failure to do so compromises the ability to identify the best offeror.

(4) *Unnecessary Use of Design Requirements.* The description of FAA's requirements in the SIR can have a significant effect on a source selection using a tradeoff process. Use of detailed design requirements or overly prescriptive statements of work severely limits the offerors' flexibility to propose their best solutions.

Functional or performance-based requirements provide flexibility and are used to the extent practicable. While it may be more difficult to develop evaluation criteria and conduct the evaluation process using this approach, the benefits warrant it. These benefits include increased competition, access to the best commercial technology, better technical solutions, and fewer situations for protests.

- g. *Ways to Improve the SIR.* A multi-disciplined team develops the SIR. The members are stakeholders in the procurement and continuously coordinate with each other to ensure consistency of the SIR with other documents such as the evaluation plan. Open communications with vendors is used to improve the SIR and to also promote understanding of FAA's requirements. This can be accomplished through various forms of communication, such as releasing draft statements of work or SIRs, advance procurement planning briefings for vendors, one-on-one meetings, or conferences with potential offerors.

7. Communications with Offerors Added 9/2020

- a. Communications with potential offerors takes place throughout the source selection process. During the screening, selection, and debriefing phases of source selection, communications are coordinated through the CO. All SIRs clearly inform offerors of how communications will be handled during the initial screening phase. The purpose of communications is to ensure mutual understanding between FAA and offerors about all aspects of the procurement, including the offerors' submittals/proposals. Information disclosed as a result of oral or written communication with an offeror may be considered in the evaluation of an offeror's submittal(s). To ensure that offerors fully understand the intent of the SIR and FAA's needs, FAA may hold a pre-submittal conference and/or one-on-one meetings with individual offerors. One-on-one communications may continue throughout the process, as required, at the discretion of the SET.
- b. Communications with one offeror do not necessitate communications with other offerors, because communications will be offeror-specific. Regardless of the varying level of communications with individual offerors, the CO ensures such communications do not give any offeror an unfair competitive advantage. During these and future communications, as applicable, FAA encourages offerors to provide suggestions about all aspects of the procurement. Communications may necessitate changes in FAA's requirements or SIR. Where communications do not result in any changes in FAA's requirements, FAA is not required to request or accept offeror revisions. The use of technical transfusion is always prohibited. Auctioning techniques are prohibited, except in the use of "commercial competition techniques."

8. Evaluation Factors Added 9/2020

a. Evaluation Factors and Subfactors.

- (1) Selecting the appropriate evaluation factors and subfactors is key to the source selection process. The factors and subfactors give offerors an insight into significant considerations FAA will use to select the best value offer. Structure the evaluation factors and subfactors and their relative importance to clearly reflect the needs of the acquisition. Evaluation factors and subfactors from the evaluation plan must be in Section M (or equivalent) of the SIR.
- (2) Factors and subfactors are definable and measurable in readily understood terms. They also represent the key areas of importance and emphasis to be considered in the source selection decision. Factors and subfactors should be limited to the essential elements to distinguish among the information/offers; i.e., will be true differentiators.
- (3) Common evaluation factors are technical, cost/price, past performance, and small business participation. Other evaluation factors may be appropriate, and one or more levels of subfactors may be needed.
- (4) Steps involved in formulating evaluation factors and subfactors include the following:
 - Conduct market research as a starting point for developing criteria;
 - Brainstorm critical factors and subfactors;
 - Identify key differentiators;
 - Define the differentiators as evaluation factors and subfactors;
 - Determine and define the evaluation factors and subfactors;
 - Relative order of importance; and
 - Assess feedback during SIR(s)
- (5) *Evaluation Weights.* Assign relative importance to each evaluation factor and subfactor. Tailor the relative importance to specific requirements. Use priority statements to express the relative importance of the evaluation factors and subfactors. Priority statements relate one evaluation factor (or subfactor) to each of the other evaluation factors (or subfactors). For example:

“Technical is the most important factor and is more important than all of the remaining factors combined. Technical is significantly more important than past Performance. The past performance factor is more important than the cost factor and small business participation factor combined. The cost factor is more important than the small business participation factor.”

- b. *Numerical and Adjectival Ratings.* When using the tradeoff process, the evaluators assess the non-cost portion(s) of the offer and associated performance and proposal risks using numerical or adjectival ratings. The success of an evaluation is not dependent upon the type(s) of ratings used, but rather on the consistency with which the evaluators use them. For this reason, adjectival ratings must include definitions for each rating so that the evaluators have a common understanding of how to apply them.
- c. *Result of Proposal Evaluation.* At the end of an evaluation, each factor and sub-factor are evaluated, the merits and risks of a proposal are documented and adjectival ratings are assigned.

9. Evaluation Added 9/2020

- a. *Conduct Training.* Before receipt of proposals, each evaluator becomes familiar with all pertinent documents, e.g., SIR, evaluation plan, and rating scales, etc.. The SET conducts training that includes an overview of these documents and the source selection process, with instructions on properly documenting each offeror’s strengths, weaknesses, and risks. Training also includes ethics requirements and the protection of source selection information. This training is especially crucial when evaluators have little or no source selection experience.
- b. *Documenting the Evaluation.* The SET performs an in-depth, systematic evaluation of offerors' proposals against evaluation factors and subfactors in the SIR(s). All evaluations must be documented. While the specific evaluation processes and tasks vary, the basic objective is to provide information about each offeror's strengths and weaknesses so the SSO can make an informed and reasoned decision. An orderly method for identifying, recording, and tracking strengths and weaknesses is imperative. Evaluation findings being supported with narrative statements is critical. Ratings alone are not conclusive information on which to make a source selection decision. All determinations relating to changes in requirements after release of the SIR must be documented in the evaluation report.
- c. *Assignment and Use of Offeror Code Names.* Once proposals are received, the SET considers establishing a code name for each of the offerors. This helps protect the identities of offerors submitting proposals, the proprietary information in their proposals, and the contents of the evaluation reports and source selection documentation. The code names are assigned by the

SET and then communicated to all evaluation personnel prior to the start of proposal evaluation. All SET members, evaluation team members, and support personnel involved in the evaluation and source selection must then use any assigned code names rather than the actual offeror names in all discussions and in all written documentation and communication (including the SSO Briefing). The SSO would not know the actual offeror names until after contract award. Additional guidance related to the assignment of code names is as follows:

- (1) Code names are based on a series of like items (e.g., states such as Missouri, Arkansas, and Nebraska for an acquisition with three offerors);
- (2) Care is taken to avoid choosing a series of names where one may be perceived as more valuable than another (e.g., if using precious metals, gold may be perceived as more valuable than bronze, or if using colors, red may be perceived more negatively than green);
- (3) If there are more than three or four offerors, alphabetic characters are used for ease of reference (e.g., Offeror A, Offeror B etc.); and
- (4) Code names would not be assigned in the following situations:
 - ☐ Only one proposal received; or
 - ☐ Where the names of all offerors competing are publicly known in accordance with AMS clause 3.2.2.3-72 "Announcing Competing Offerors" (July, 2004).
 - ☐ For real property acquisitions

Note: Regardless of whether code names are used, SET members, evaluation team members, and support personnel are responsible at all times for the proper treatment of source selection sensitive information from the evaluations and/or proposals.

d. *Past Performance Evaluations.* The past performance evaluators assess the performance risk associated with each proposal. The final assessment describes the degree of confidence in the offeror's likelihood of successful contract performance based on that offeror's demonstrated record of performance under similar contracts. (See AMS Procurement Guidance T3.2.2.3.B.2 for guidance on evaluating past performance.) For real property acquisitions, past performance will be considered as part of vendor responsibility determination. (See AMS Procurement Guidance T3.2.2.7)

e. *Cost/Price Evaluations.* For fixed priced contracts, the evaluation could be as simple as assessing adequate price competition and determining prices are fair and reasonable. Fixed priced contracts are evaluated for appropriateness (i.e., consider market prices, appropriate risk and the possibility of a "buy-in") for what is being offered. For cost- reimbursement

and/or time-and-material contracts, the offerors' estimated costs are analyzed for both realism and reasonableness. The cost realism analysis enables evaluators to determine each offeror's most probable cost of performance. This precludes an award decision based on an overly optimistic cost estimate. Additionally, whenever cost analysis is performed, profit or fee analysis is conducted. (See AMS Procurement Guidance T3.2.3 for guidance on cost and price methods.)

10. Selection and Award Added 9/2020

- a. *Decisions.* After the evaluators complete their evaluation, the results of the evaluation are presented to the SSO. The SSO may do the following:
 - ☐ Make a selection decision (see below);
 - ☐ Make a screening decision by screening those offerors determined to be most likely to receive award, thus continuing the screening phase;
 - ☐ Amend and re-open to initial offerors; or
 - ☐ Cancel the procurement.
- b. *Presenting the Evaluation to the SSO.* The SET prepares documentation of the evaluation to present to the SSO. The SSO uses this documentation as an aid when making a decision based on business judgment about which proposal represents the best value. At the request of the SSO, the SET may present the evaluation results through one or more briefings.
- c. *Source Selection Decision.* The SSO must document his/her rationale for selecting the successful offeror. The source selection decision document explains how the successful proposal compared to other offeror's proposals based on the evaluation factors and subfactors in the SIR, and discusses the judgment used in making any tradeoffs. If the SSO disagrees with a finding of the SET, the SSO's rationale is part of the decision document. When the SSO determines, in a best value tradeoff source selection, that the best value proposal is other than the lowest-priced proposal, the decision document justifies paying a price premium regardless of the superiority of the successful proposal's non- cost rating. The justification clearly states the benefits or advantages FAA receives for the added price and why it is in FAA's best interest. This justification is required even when the SIR indicates non-cost factors are more important than cost/price. The SSO should consult with legal counsel to review the source selection decision document to assure that the decision clearly articulates the business judgment of the SSO.
- d. *Awarding the Contract.* After the SSO signs the source selection decision document, the CO executes and distributes the contract, subject to completing other requirements before award such as Congressional notification, if applicable.

11. Debriefing of Offerors Added 9/2020

a. *Overview.* The CO notifies all offerors who participated in the competitive process that they may request a single debriefing within three working days from receipt of award notification. Because each offeror puts considerable resources into preparing and submitting a proposal, fairness dictates a prompt debriefing and an explanation of why a proposal was unsuccessful.

b. *Purposes of a Debriefing.* A debriefing accomplishes the following:

- ☐ Explains the rationale for the offeror's exclusion from the competition or non-selection for award;
- ☐ Instills confidence in the offeror that it was treated fairly;
- ☐ Assures the offeror that appropriately qualified personnel evaluated the proposal according to the SIR and applicable policies and laws;
- ☐ Identifies strengths and weaknesses in the offeror's proposal so the offeror can prepare better proposals in future FAA procurements;
- ☐ Gives the offeror an opportunity to provide feedback about the SIR process, communications, and the source selection; and
- ☐ Reduces misunderstandings and reduces the risk of protests.

A debriefing is not any of the following:

- ☐ Page-by-page analysis of the offeror's proposal;
- ☐ Point-by-point comparison of the proposals of the debriefed offeror and other offerors; and
- ☐ Debate or defense of FAA's award decision or evaluation results.

The debriefing must not reveal any information prohibited from disclosure or exempt from release under the Freedom of Information Act.

c. *Notification of Debriefing.* The CO informs the offeror of the scheduled debriefing date by electronic means with return receipt to acknowledge receipt. If the offeror requests a later debriefing date, the CO requires the offeror to acknowledge in writing that it was offered an earlier date, but requested a later date instead. This procedure protects FAA's interests if the offeror subsequently files a protest.

d. *Debriefing Methods and Location.* The CO debriefs one unsuccessful offeror at a time. The CO selects the method and location of the debriefing. Although face-to-face debriefings are frequently used, a debriefing may be by telephone or other electronic means acceptable to the offeror and FAA. It may be burdensome for an offeror to attend in person and the needs of the offeror are given due consideration. The CO may provide an advance copy of the debriefing to the offeror and allow the offeror to provide written questions for FAA to review before the debriefing.

e. *Attendees.* The CO selects FAA attendees, and chairs and controls the debriefing. The CO asks an offeror to identify all individuals by name and position who will attend the debriefing. Normally, the CO does not restrict the number of personnel the debriefed offeror may bring unless there are space limitations. Ensuring appropriate FAA personnel attend the debriefing to be meaningful is important. The CO may rely on SET members to address specialized areas of the offerors' proposals. Legal counsel participates in preparation and review of the debriefing materials. If the offeror's legal counsel will attend the debriefing, FAA legal also attends. If there are indicators a protest is likely, inform FAA's legal counsel. The CO must not deny a debriefing because a protest is threatened or has already been filed.

f. *Preparing for a Debriefing.* The extent of preparation varies with the complexity of the source selection. Sometimes, preparing debriefing charts is sufficient. Other times, a written script and dry run rehearsals may be beneficial. Because debriefings are time sensitive, preparation may begin before proposal evaluation is complete. SET members may assist in preparing debriefing materials. The CO briefs all FAA personnel who will attend the debriefing on their roles during the debriefing.

g. *Information Provided.* In a post-award debriefing, the CO discloses the following:

- The evaluation rating; significant strengths and weaknesses; strengths and weaknesses; and deficiencies of the debriefed offeror's proposal;
- The debriefed offeror's total evaluated price/cost and the awardee's total evaluated price/cost; and
- A general summary of the rationale for the award decision.

h. *Handling Questions.* Ideally, the CO gets all questions in writing. As a general rule, FAA personnel do not answer questions "on the fly." The CO and other FAA personnel caucus to formulate a response before providing an answer. At the end of the debriefing, the CO advises the offeror that the debriefing is officially concluded. At the discretion of the CO, questions submitted by the offeror after the date on which the debriefing was conducted may be answered. In such cases, the CO must advise the offeror that the information is not considered part of the official debriefing (thereby not affecting the protest time period).

12. Oral Presentations Added 9/2020

a. *Introduction.* Oral presentations (sometimes referred to as oral proposals) provide offerors an opportunity to orally present information they would normally provide in writing. Oral presentations may be beneficial in a variety of procurements, and they are most useful when

requirements are clear, complete, and stated in performance or functional terms. Oral presentations are ideal for gathering information about how qualified the offeror is to perform the work, how well the offeror understands the work, and how the offeror will approach the work. Oral presentations may be conducted in person or via video teleconference. A videotaped presentation does not constitute an oral presentation because it is not a real-time exchange of information.

b. *Scope of the Oral Presentation.* Before deciding if oral presentations are appropriate, the SET must select the evaluation factors. Then the SET decides whether the information needed to evaluate these factors can be better presented orally, in writing, or through a combination of both. Oral presentations can convey information in diverse areas such as responses to sample tasks, understanding the requirements, experience, and relevancy of past performance. Offerors should be required to submit briefing materials in advance of the presentations. This allows FAA attendees to review the materials and prepare any questions. Oral statements cannot be incorporated into the contract by reference, so any information to be made part of the contract needs to be submitted in writing. At a minimum, the offeror must submit certifications, representations, and a signed offer (including any exceptions to SIR terms and conditions) in writing. The offeror must submit any other factual data, such as cost or pricing data or subcontract commitments, as part of a written proposal, too.

c. *SIR Information.* If oral presentations are appropriate, the SIR must notify offerors that FAA will use oral presentations to evaluate and select an offeror for award. The proposal preparation instructions must contain explicit instructions and guidance regarding the extent and nature of the process to be used. The instructions discourage elaborate presentations because they may detract from the information being presented. At a minimum, include the following information in the SIR:

- ☐ The type of information the offeror must address during the oral presentations and how it relates to the evaluation criteria;
- ☐ The required format and content of the presentation charts and any supporting documentation;
- ☐ Any restrictions on the number of charts and/or the number of bullets per chart and how FAA will handle material that does not comply with these restrictions;
- ☐ The required submission date for the presentation charts and/or materials;
- ☐ The approximate timeframe when the oral presentations will be conducted and how FAA will determine the order of the offerors' presentations;
- ☐ Whether any rescheduling will be permitted if an offeror requests a change after the schedule has been established;
- ☐ The total amount of time each offeror will have to conduct their oral presentation;
- ☐ Who must make the presentation and a requirement that the offeror provide a list of names and position titles of the presenters;
- ☐ Whether the presentation will be video or audio taped;
- ☐ The location of the presentation site and a description of the site and resources

- available to the offeror;
- ☐ Any rules and/or prohibitions regarding equipment and media;
- ☐ How FAA will treat documents or information referenced in the presentation material but never presented orally;
- ☐ Any limitations on FAA-offeror interactions during and after the presentation
- ☐ Whether the presentation will constitute discussions;
- ☐ Whether FAA will use the information in the oral presentation solely for source selection purposes or whether such information will become part of the contract (which will require a subsequent written submission of that information); and
- ☐ Whether or not the offeror includes any cost (or price) data in the presentation.

d. *Timing and Sequencing.* Because preparing and presenting an oral presentation involves time and expense, offerors not likely to be candidates for award do not have to conduct oral presentations. This can be an important consideration with small businesses. When this is a concern, consider down selections to establish the likely candidates for award before oral presentations. The SIR clearly articulates the methods for down selection. The CO may draw lots to determine the sequence of the offerors' presentations. The time between the first and the last presentation is as short as possible to minimize any advantage to the offerors that present later.

e. *Time Limits.* Establish a total time limit for each offeror's presentation. It is not advisable to limit the time for individual topics or sections within the presentation; this detail is the presenter's responsibility. If planning a question and answer (Q&A) session, it is excluded from the allotted time and there is a separate time limit for Q&A. The amount of time allotted is determined using business judgment based upon the complexity of the procurement, experience, and lessons learned.

f. *Facility.* The presentations are conducted at a Government-controlled facility. This helps guard against surprises and ensures a more level playing field. Nothing precludes conducting an oral presentation at an offeror's facility. This may be more efficient if site visits or other demonstrations are part of the source selection. If using a Government-controlled facility, it may be made available for inspection and, if warranted, a practice session. Allowing offerors to get acquainted with the facility will help ensure that it does not detract from the presentation content.

g. *Recording the Presentations.* Having an exact record of the presentation could prove useful both during the evaluation process and in the event of a protest or litigation. The oral presentations can be recorded using a variety of media, e.g., videotapes, audio tapes, written transcripts, and/or a copy of the offeror's briefing slides or presentation notes. The SET is responsible for determining the method and level of detail of the record. If using videotaping, allow for the natural behavior of the presenters. If slides or view graphs are used, the camera views both the lectern and screen at the same time. Place the microphones so that all communications can be recorded clearly and at adequate volume. Every effort is made to

avoid letting the recording become the focus of the presentation. The recording, which is considered source selection information, will become part of the official record. Provide a copy to the offeror and seal and securely store the master copy of the recording to ensure there are no allegations of tampering in the event of a protest or court action.

- h. *FAA Attendance.* The CO chairs every presentation. All FAA personnel involved in evaluating the presentations attend every presentation.
- i. *Presenters.* The offeror's key personnel who will perform or personally direct the work being described conduct their relevant portions of the presentations. Key personnel include project managers, task leaders, and other in-house staff of the offeror's and/or their prospective key subcontractor organizations. This will avoid the oral presentation becoming the domain of a professional presenter, which would increase costs, detract from the advantages of oral presentations, and adversely affect small businesses.
- j. *Reviewing the Ground Rules.* Prior to each presentation, the CO reviews the ground rules with the attendees. This includes discussing any restrictions on FAA-offeror information exchanges, information disclosure rules, documentation requirements, and housekeeping items. These ground rules are included in the SIR. If the evaluation includes a quiz, the CO discusses the related ground rules. For example, whether the offeror may caucus or contact outside sources by phone before answering. The ground rules must avoid too much control because it could inhibit the presentation. The CO controls all exchanges during the presentation if discussions will not be conducted.
- k. *Evaluation of Presentations.* Evaluations should be performed immediately after each presentation. Using evaluation forms will help the evaluators collect their thoughts and impressions. Evaluators must document the rationale for their evaluation conclusions.

B. Other Source Selection Considerations Added 9/2020

1 Public Announcement and Announcement of Competing Offerors Added 9/2020

All procurements over \$150,000 must be publicly announced on the Internet or through other means. If the Internet is used, as a minimum the announcement should be placed on the Contracting Opportunities page contained in the FAA Acquisition System Toolset (FAST). This requirement does not apply to real property acquisitions, emergency actions, purchases from an established Qualified Vendors List (QVL) or Federal Supply Schedule (FSS), exercise of options, modifications, or changes. For actions under \$150,000, a public announcement is optional.

For products, services, and construction procurements, publicizing the names of offerors competing for FAA contracts can be a method of encouraging small businesses to seek subcontracting opportunities with potential FAA contractors. The Contracting Officer (CO) may publicly announce names and addresses of offerors responding to a screening information request (SIR), provided the SIR includes a notice to the offerors and no offeror objects to the release of this information. The CO may make the public announcement after initial offers are received and/or *after* making a down select decision.

2 Past Performance Added 9/2020

- a. General. Past performance can be one indicator of a prospective contractor's future performance. To help ensure that the best performing contractors are providing products, services, construction, and real property to the FAA, past performance should be evaluated during source selection. If past performance is not evaluated, reasoning must be documented.
- b. Recommendations for Using Past Performance in a Screening Information Request (SIR).
 - (1) General Considerations. Factors chosen for evaluation should be reasonable, logical, coherent, and directly related to requirements in the statement of work (SOW). The key to successful use of past performance in the screening process is a clear relationship between the SOW, instructions to offerors, and evaluation criteria. Past performance information that is not important to the current acquisition should not be included.
 - (2) Responsibility Determination. When the CO or procurement team considers it appropriate, the SIR states past performance will be used to evaluate the responsibility of the contractor. A contractor with a record of unsatisfactory past performance should be screened out of the selection process.
 - (3) Past Performance as a Separate Non-Cost/Price Factor. Including past performance as a stand-alone evaluation factor is better than integrating it with other non-cost/price evaluation factors. The source and type of past performance information to be included in the evaluation and the relative importance of past performance compared to price or cost and any other evaluation factors is at the broad discretion of the procurement team (CO, legal counsel, program official and other supporting staff).
 - (4) Non-Relevant Contract Experience/New Contractors. The SIR must state whether new contractors or contractors with non-relevant contract experience will be considered, or

rated negatively.

- (5) Size, Scope, Complexity, and Time-frame. The SIR requests the offerors for references for ongoing projects and/or contracts completed within a specified period of time (three to five years is reasonable but can be for a shorter period if appropriate) for contracts that are similar in size, scope, and complexity to the SOW. Each of these terms (size, scope, and complexity) should be SOW specific and defined in the SIR. Gather past performance history from sources other than those provided by the offeror. Such sources include the Contractor Performance Assessment Reporting System (CPARS) database, PRISM database along with other agency contracting personnel, and listings of contract awards posted on FAA Contract Opportunities.
- (6) Sub-factors. The procurement team must pay attention to what differentiates a "good" performer from a "poor" performer. Past performance sub-factors are shaped by those differentiators, be limited in number, and are tailored to the key performance criteria in the SOW.
- (7) Relative Importance. The SIR may state whether all sub-factors are relatively equal, or whether certain sub-factors are more important than others.
- (8) Major Subcontractors. If applicable, if major subcontractors are likely to perform critical aspects of the contract, the procurement team evaluates past performance of these subcontractors to determine the overall likelihood of success of the prime contractor. The SIR states how such information will be evaluated.
- (9) Affiliates, Divisions, etc. The past performance of the affiliates, divisions, etc. that are actually performing the work is considered. The procurement team must consider the degree of control that a parent organization will exert over the affiliate, division, etc. in determining whether both the parent organization and affiliate, division, etc. past performance is evaluated.
- (10) Number of References. Ask for at least two points of contact (program/technical and contracts) for each past performance reference to assure that all aspects of the offeror's performance can be evaluated.
- (11) Use of Other Sources. The instruction to offerors includes a statement that the Government may use past performance information obtained from sources other than those identified by the offeror, and that the information obtained may be used for both the responsibility determination and the best value decision. For each non-Federal

reference, the SIR includes an authorization to release information.

(12) Inclusion of Past Performance Questionnaire (PPQ). The PPQ does not need to be included as an attachment in the SIR. If the PPQ is included in the SIR, note the past performance questions are not limited to those on the questionnaire.

(13) Sample SIR Provisions. Appendix 2 to this Guidance contains examples of SIR provisions and an example client authorization letter. The example is not the only way to include past performance in the SIR. Each SIR must contain instructions and evaluation information that best reflects the individual acquisition.

c. Evaluating Past Performance.

(1) Relation to SIR. Instances of performance, both good and poor, are noted and related to SIR requirements. If problems were identified on a prior contract, the role the sponsor may have played in that result is taken into account. Evaluations consider the number and severity of problems, the demonstrated effectiveness of corrective actions taken (not just planned or promised), and the overall work record.

(2) Current Versus Older Performance. The age of the performance being evaluated may be weighted so that performance on older contracts receives less weight than performance on more recent contracts.

(3) Method of Scoring. The final past performance rating may be reflected by a color, a number, adjectival, or a combination of these methods, depending upon what system is being used overall to indicate the relative ranking of the offerors. A past performance rating is not a precise mechanical or scientific process and must include sound business judgment. Therefore, the documentation of the final rating includes a logical description of the underlying reasons for the conclusions reached.

(4) Disclosure of Negative Information. If the procurement team receives negative information that would have a significant effect on the likelihood of award to an offeror, then the procurement team discloses the information and provides the offeror an opportunity to respond. This is true even if the SIR states that award may be made on initial offers. The SIR includes the appropriate provisions notifying the offerors that FAA retains this option.

(5) Evaluating Disputed/Negative Information. When the procurement team receives negative information, or information that is disputed, they should carefully consider the offeror's response and determine what weight to apply, based on the facts obtained

from the questionnaire, interview, or other sources. The file must be documented to explain why the procurement team assigned a particular rating. This is especially important in situations involving unresolved disputes.

d. Obtaining Information on an Offeror's Past Performance.

- (1) Reference Checks. The most commonly used method of obtaining past performance is to conduct reference checks from a variety of sources, including previous FAA program and contracting personnel, other Federal agencies, state and local governments, and commercial contractors.
- (2) Other Sources. Dun & Bradstreet can obtain information on past performance on specific contractors for the FAA (Dun & Bradstreet charges for this information). In lieu of FAA paying for the report, the SIR may require offerors to provide a copy of a recent past performance report prepared by Dun & Bradstreet. Quality certifications and awards can also serve as a useful source of past performance information.
- (3) Timetable. The process of collecting past performance information begins as soon as the proposal evaluation begins. It may be best to establish a team devoted entirely to this task during the screening, especially if FAA anticipates receiving a large number of proposals. Researchers must locate and question sources of information, either in person, by telephone or in writing. If the information shows a history of poor performance, the procurement team can eliminate the proposal from the competition as non-responsible.
- (4) Questionnaire or Survey Form. The first step in obtaining information from sources is to develop a questionnaire, or survey form, that reflects the evaluation rating system that will be used to assess the offerors strengths and weaknesses for the contract being considered. Questions are worded so that interviewees understand precisely what they are being asked to describe. To maintain accurate records and facilitate verification, the questionnaire (survey) record form include: Interviewer's name, agency/company name, reference's name (to be held in confidence), full mailing address and telephone number, date the questionnaire is completed, and description of the contract effort discussed. An example of a questionnaire is found in Appendix 2.4 Sample 3B.
- (5) Information Collection. Once the questionnaire is prepared, the procurement team should contact references. There are various ways to collect the information: Face-to-face interviews, mailing the questionnaires, telephone interviews, electronic mail (ensuring security measures are taken), or some combination of these.

- (6) Number of References. The SIR requires the offeror provide at least two references (one from the program office/one from contracts) for each of its proposed past performance examples. Additional references could be identified during interviews in order to survey a large enough sample to identify patterns in performance.
- (7) Setting Up Interviews. Being well organized and efficient is important when conducting the interview so as not to waste the interviewee's time. It is helpful to call the reference to make an appointment to conduct an interview, rather than telephoning the references unannounced, thereby catching them unprepared or with little time to respond. If possible, the questionnaire is mailed or faxed to the reference in advance of the appointment. Interviewers take copious notes on the questionnaire to ensure that all information is captured. Tape recording is a good means for capturing all of the conversation; however, tape recording the conversation may cause the interviewee discomfort and reduce the amount of information provided. If tape recording is used during the interview, ensure the interviewee is aware of and agrees to the use of recording devices.
- (8) Conducting Interviews. Evaluators look for patterns of either favorable or unfavorable overall performance, rather than focusing on individual successes or failures. It is important to look for actions that demonstrate high performance and not just unfavorable performance. This will help to get away from the old responsibility determination mode of just looking at performance problems. There appears to be a tendency for references to give an upward bias to ratings. The interviewer should ask enough questions to discriminate between "good" and "excellent." Evaluators request copies of any existing documentation in support of excellent or negative findings (i.e., correspondence, modifications, determinations, etc.). Investigating negative findings in- depth prior to presenting them to offerors, in discussions if held, will alleviate unnecessary delays. Prior to concluding the interview, the evaluator asks the reference for a summary opinion, e.g., how would the interviewee rate the contractor's overall performance and would the interviewee like to do business with the contractor again?
- (9) Concluding Telephone and Face-to-Face Interviews. Immediately following a telephone or face-to-face interview, the interviewer prepares a narrative summary of the conversation (this can be the questionnaire as filled in by the interviewer) and send it to the reference for verification, preferably by certified mail return-receipt requested, fax, or electronic mail. The narrative states explicitly that if the reference does not object to its content within the time specified, it would be accepted as correct. If the reference indicates that the narrative is incorrect, then a corrected narrative is sent for verification. If a reference will not agree to the record and satisfactory corrections cannot be agreed upon, the record cannot be relied upon and must not be included in the offeror's rating. Another source may provide the same information, however.

- (10) Mailing Questionnaires. If mailing questionnaires is the chosen method for collecting past performance information, mail the questionnaires to the references, provide a time-frame for return of responses, and wait for the responses. If mailed questionnaires are not received in a timely manner, follow-up telephone interviews are suggested (following guidance above if telephone interview occurs).

3 Cancelling a Screening Information Request Added 9/2020

The CO, with the concurrence of the procurement team, may cancel a SIR at any time during the solicitation process. The notification of cancellation may be made through the same mechanism as the initial or subsequent SIRs. The CO must document cancellation for the contract file.

4 Section 508 of Rehabilitation Act Added 9/2020

a. Requirements for Accessibility.

Section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d) requires that persons with disabilities that are either Federal employees or members of the public seeking information or services from a Federal department are to have access to and use of information and data comparable to the access and use of information and data by Federal employees or members of the public who do not have disabilities. Section 508 applies to contract awards, task orders, delivery orders, orders under Government-wide Schedules and Interagency Agreements for electronic and information technology (EIT), as defined below. The procurement team (CO, program official, legal counsel, and other supporting staff) will insert Section 508 requirements into SIRs that include development, procurement, maintenance, or use of electronic and information technology unless an exception applies (see Exceptions to Section 508 below).

b. Definition.

Electronic and information technology (EIT) means any equipment or interconnected system or subsystem of equipment used in automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information. For purposes of the preceding sentence, equipment is used by the FAA:

- (1) If the equipment is used directly by FAA; or
- (2) Is used by a contractor under a contract with FAA that:
 - (a) Requires use of such equipment; or

- (b) Requires use, to a significant extent, of such equipment in performance of a service or furnishing of a product.

c. EIT Products. EIT includes, but is not limited to the following:

- (1) Computers and other office equipment;
- (2) Software and firmware;
- (3) Services (including support Services);
- (4) Telecommunication products;
- (5) Information kiosks;
- (6) Office equipment such as copiers and fax machines; and
- (7) Websites.

d. Exceptions to Section 508.

- (1) Section 508 does not apply to EIT if the following applies:
 - (a) Acquired by a contractor incidental to a FAA contract;
 - (b) For a national security system;
 - (c) Located in space frequented only by service personnel for maintenance, repair, or occasional monitoring of equipment;
 - (d) That would impose an undue burden on FAA (see paragraph f. below); or
 - (e) That would impose a fundamental alteration in the nature of an

EIT product or its components.

(2) EIT is not available

(a) When procuring commercial items, FAA must comply with those EIT standards that can met with supplies or services that are available in the commercial marketplace in time to meet FAA's delivery requirements.

(b) When EIT is not available, the contract file must be documented as outlined below.

(3) Documentation supporting a Section 508 exception must be maintained in the contract file. The FAA Section 508 Procurement Checklist found below in Section D. "Forms" can aid in regulatory compliance. Required documentation includes the following if applicable:

(a) Applicable technical provisions of the Access Board's standards;

(b) Market research performed to locate items that meet the applicable technical provisions;

(c) The specific provisions that cannot be met;

(d) Undue burden documentation (see paragraph f. below); and

(e) Other applicable documentation.

(4) If an exception applies preventing FAA from meeting all of the applicable technical provisions, FAA may acquire EIT that meets some of those provisions.

e. Applicability.

(1) All EIT procured on or after June 21, 2001 must comply with Section 508 standards.

(2) The FAA does not have to retrofit EIT procured before June 21, 2001.

f. Approval of Undue Burden.

When applying the requirements of Section 508 (see paragraph a. "Requirements for Accessibility" above) would impose an undue burden, FAA must provide individuals with disabilities covered by Section 508 the information and data by an alternative means of access that allows the individual to use the information and data. Undue burden is defined as a significant difficulty or expense to the FAA.

(1) Documentation of an undue burden must include the following:

- (a) A thorough and fully supported explanation as to why and to what extent compliance with each provision of "36 CFR Part 1194 – Electronic and Information Technology Accessibility Standards" would create an undue burden for the EIT being procured; and
- (b) Dollar value, market research performed, and alternative means of access that will be provided for individuals with disabilities to use the information or data. Alternative means of access include (but are not limited to):
 - (i) Voice, fax, or relay service;
 - (ii) Qualified sign language interpreters;
 - (iii) Teletypewriters (TTY);
 - (iv) Internet posting;
 - (v) Captioning;
 - (vi) Text-to-speech synthesis;
 - (vii) Readers;
 - (viii) Personal Assistants; or

(ix) Audio description.

(2) Final approval authority of an undue burden determination resides with the FAA Administrator. The Secretary of the Department of Transportation (DOT) formed the Undue Burden Advisory Board (UBAB), which will advise FAA on undue burden matters. The process for undue burden determinations is:

(a) Review by DOT Chief Information Officer;

(b) Review by DOT General Counsel;

(c) Review by UBAB and their submission of a recommendation to the FAA Administrator in the form of an "Undue Burden Report"; and

(d) Consideration of the report by the FAA Administrator or delegate. The resulting decision is final.

g. Sources of Further Information.

(1) U.S. Architectural and Transportation Barriers Compliance Board (U.S. Access Board)

(2) Government-wide Section 508 website

(3) FAA Section 508 website (FAA only)

5 Spare Parts Added 9/2020

a. *Shipping Spare Parts.* For all shipments of spare parts, the contractor must include a packing list that includes at least the name, part number, Commercial and Government Entity (CAGE) Code, quantity, unit price, and national stock number (if available). Contracts that require shipment of spare parts include Clause 3.2.2.3-73 to establish this contractual requirement.

b. Spare Parts for Nationally Furnished Project Materiel.

(1) *Requirements.* The contracting officer includes coverage for spare parts in the

screening information request and subsequent contract that facilitates availability, accessibility and tracking of spare parts.

(2) *SIR Provision*. For contracts that will require the purchase and delivery of spare parts, the contracting officer establishes a discrete contract line item number for initial site and depot-level spare parts list contract line item number (CLIN) and corresponding delivery date. The CO also includes the SIR provision 3.2.2.3-74, "Submission of Initial Site and Depot-level Spare Parts List" as part of the instruction to vendors on the preparation of their SIR submissions to assure that the parts list will be furnished as part of the SIR submission.

(3) *Contract Requirements*. The contracting officer includes a separately priced CLIN for the site and depot-level spare parts list and corresponding delivery due date of this contract deliverable. The list contains each item's name, part number, Commercial and Government Entity (CAGE) Code, unit price, national stock number (if available) and the quantity.

6 Supplier Process Capability Evaluation and Appraisal Added 9/2020

a. *General*. This guidance is designed to assist the Source Selection Official (SSO) in considering process capability of potential suppliers during proposal evaluations, mitigating process-related risk of the supplier during contract/agreement performance, and for fostering process improvement of the supplier throughout the lifecycle.

b. *Scope/Applicability*. Supplier Process Capability Evaluation and Appraisal are intended for use in new acquisitions and agreements, but may also be incorporated into existing contracts or agreements.

c. *Expected Benefits*.

(1) *Acquirer*. The FAA can expect reduced risk in supplier selection and in meeting program objectives by motivating suppliers to improve their processes without forcing compliance to specific practices. Other benefits would include enhanced quality, predictability, performance and cost effectiveness of products and services acquired.

(2) *Supplier*. Suppliers can expect reduced risk in meeting contract requirements by identifying and addressing process deficiencies that might negatively impact project success. Other benefits would include improved performance by

identifying and addressing process deficiencies in critical process areas and potential for earning additional award fee where such incentives are part of the contract.

d. *Pre-award.* In the early phase of planning a source selection, the SSO determines whether process capability will be considered as a risk factor for source selection. The following criteria are considered when making this decision:

- (1) The performance of specific processes is considered critical to accomplishment of the mission;
- (2) The product or service being acquired is considered crucial to the FAA;
- (3) A major component of the product or service to be provided is considered to be unprecedented;
- (4) The total estimated value of a contract for research, engineering, and development (R,E&D) is equal to or greater than \$70 million, or a contract for acquisition is equal to or greater than \$300 million;
- (5) There is lack of information on offeror's past performance or process capability data, or the past performance or process capability of the offeror is weak; and
- (6) The product or service is especially complex.

If process capability will be used as an evaluation factor, or as an adjustment to risk at either the area or factor level, the SIR must include request for information on current status and commitment to process improvement, including evidence indicating process capability. The SIR must also identify particular aspects of the suppliers' performance capabilities that are considered critical to success of the contract, such as architecture and design, safety, security, human factors, integration, risk management, or quality assurance.

Process capability appraisals can be used after award to validate and confirm the successful offeror's proposal and/or to identify risks associated with process deficiencies to be addressed during contract performance. In order for a post-award appraisal to occur, the SIR must indicate that a post-award appraisal will be performed on the successful offeror's processes that are identified as critical or potentially risky.

e. *Post-award.* Post-award appraisals may be conducted on existing contracts with well-established project(s), or on new contracts using target projects selected from the supplier's sponsoring organization.

f. *Contract/Agreement Requirements.* Considerations in developing contract/agreement requirements include use of trade-off analysis to establish the level of surveillance of strong or weak areas. For example, if a supplier is strong in an area, it is inefficient to check on that area in the same way that would be applied in an area found to be weak. Additional Award fees may also be used as an incentive. Contract/Agreement performance requirements include completion of initiatives to remove critical deficiencies identified. Completion may be a factor in award fees. Depending on the decision of the SSO, contract requirements may include the following:

- (1) Risk mitigation plans to remove deficiencies noted during pre-award;
- (2) Performing scoped post-award and follow-up appraisal(s);
- (3) Risk mitigation plans to remove deficiencies noted in post-award appraisal;
- (4) Government “surveillance” for specific areas (weaknesses) to be addressed;
- (5) An adequate reporting or insight mechanism to facilitate monitoring the risk mitigation plan;
- (6) Consideration for creating additional process strengths; and
- (7) Improvement in performing process improvement activities.

Risk mitigation planning describes in detail the schedule and actions that will be taken to remove deficiencies noted during the evaluation and selection process and those uncovered in the appraisal process, if a post award appraisal is performed.

7 Tiered Evaluation ~~Added 9/2020~~Revised 01/2021

a. General.

- (1) Tiered evaluation of offers is a process by which FAA promotes small business participation while providing FAA a means to continue the procurement if small business participation is insufficient.
- (2) The Contracting Officer (CO) may use tiered evaluation of offers to promote

competition in each tier of small business concerns while still allowing other than small business to participate without issuing another SIR.

- (3) The CO must consider the tiers of small business concerns prior to evaluating offers from other than small business concerns.

b. Utilizing Tiered Evaluations.

- (1) The CO must specify in the SIR that a tiered evaluation of offers will be used in source selection, and offers from other than small business concerns will only be considered after the determination that an insufficient number of offers from responsible small business concerns were received.
- (2) The CO will specify the tiered order of precedence for evaluating offers in the SIR, and determine the applicable tiers based upon market research of the availability of small business concerns. An example of a tiered order of precedence is (descending in order) as follows:

- (a) Socially and economically disadvantaged business (SEDB) expressly certified by the Small Business Administration (SBA) for participation in SBA's 8(a) program;

- (b) Service-disabled veteran owned small business (SDVOSB);

- (c) Women-Owned Small Business (WOSB);

- (d) Historically Underutilized Business Zone (HUBZone) small business;

- ~~(e)~~(e) Small business (SB); and

- ~~(d)~~(f) Other than small business.

- (3) Once offers are received, the CO will evaluate a single tier of offers according to the order of precedence specified in the SIR. If no award can be made at the first tier, the evaluation will proceed to the next lower tier until award can be made. If no award can be made at the first tier, offerors from the first tier continue on in the evaluation and are evaluated against offerors from each subsequent tier.

8 Qualified Vendors List Added 9/2020

A Qualified Vendors List (QVL) is a list of service or product providers who have had their products or services examined, tested or evaluated and who have satisfied all applicable qualification requirements. QVLs are intended as a mechanism to establish a pool of qualified vendors, any of which FAA would be satisfied with the products delivered or services performed. Pre-screening vendors allows only those most qualified contractors to perform a particular service or provide a particular product during a specific period. QVLs are most appropriate when the contracting office can reasonably anticipate recurring or repetitive requirements for the same or similar supplies or services. For detailed guidelines on establishing a qualified vendors list, the procurement team should refer to Appendix 1 Guide for Establishing a Qualified Vendors List (QVL).

9 Two-phase Source Selection Added 9/2020

(a) *General.* A Contracting Officer (CO) may utilize a two-phase process to solicit offers and select a source for award. The contracting officer can choose to use this optional method of solicitation when deemed beneficial to the FAA in meeting its needs.

(b) *Phase One.*

(1) The CO must make a public announcement in accordance with AMS T3.2.2.3.B.1, except that the notice must include the following information:

- a) Notification that the procurement will be conducted using the specific procedures identified under this Section.
- b) A general notice of the scope or purpose of the procurement that provides sufficient information for sources to make informed business decisions regarding whether to participate in the procurement.
- c) A description of the basis on which potential sources are to be selected to submit offers in the second phase. (For real property acquisitions, the CO may use a market survey as means to identify sources that would submit offers in the second phase.)
- d) A description of the information that is to be required to be submitted if the request for information is made separate from the notice.
- e) Any other information that the CO deems is appropriate.

(2) *Information Submitted by Offerors.* Each offeror must submit basic information such as the offeror's qualifications, the proposed conceptual approach, costs likely to be associated with the approach, and past performance data, together with any additional information requested by the CO.

(3) *Selection for participating in second phase.* The CO must select the offerors based on the Phase One criteria that are eligible to participate in the second phase of the process. The CO must

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limit the number of the selected offerors to the number of sources that the CO determines is appropriate and in the best interests of the FAA.

(c) *Phase Two.*

- (1) The contracting officer must conduct the second phase of the source selection consistent with T3.2.3.3.A.
- (2) Only sources selected in the first phase will be eligible to participate in the second phase.

C. Clauses Revised 9/2020

[view contract clauses](#)

D. Forms Revised 9/2020

[view procurement forms](#)

1 Section 508 Checklist Added 9/2020

Standards	
Check the Access Board's standards that apply to the EIT purchase:	
	1194.21 Software Applications and Operating Systems
	1194.22 Web-based Information or applications
	1194.23 Telecommunication Products
	1194.24 Video and Multimedia Products
	1194.25 Self-Contained Products
	1194.26 Desktop and Portable Computers
	1194.31 Functional Performance Criteria
	1194.41 Information, Documentation and Support
	Request vendor Section 508 compliance template (e.g. vendor's website or other website location)
Exceptions	
	EIT acquired by a contractor incidental to a FAA contract
	EIT for a national security system

	EIT located in spaces frequented only by service personnel for maintenance, repair, or occasional monitoring of equipment
	EIT that would impose an undue burden on the agency
	EIT that would impose a fundamental alteration in the nature of an EIT product or its components
Research	
After market research, the product is considered:	
	Compliant
	Partially compliant
	Noncompliant
	EIT is not available

E. Appendix Added 9/2020

1. Guide to Establishing a Qualified Vendors List (QVL) Added 9/2020

1 Introduction

A Qualified Vendors List (QVL) is a list of service or product providers who have had their products or services examined, tested or evaluated and who have satisfied all applicable qualification requirements. QVLs are intended as a mechanism to establish a pool of qualified vendors, any of which FAA would be satisfied with the products delivered or services performed. Pre-screening vendors allows only those most qualified contractors to perform a particular service or provide a particular product during a specific period.

2 Purpose

QVLs are most appropriate when the contracting office can reasonably anticipate recurring or repetitive requirements for the same or similar supplies or services. When planning a QVL, consider the scope of work to be performed, e.g., would it apply to only one region or center, or would requirements from several technical offices be combined. The procurement team should determine the extent of any testing, capability demonstrations, samples, etc. that may involve an expense. If testing, demonstrations, etc. are necessary, the SIR should be explicit as to whom would bear the cost. The procurement team must secure the necessary funds to accomplish these activities if FAA is to bear the costs.

3 Public Announcement

If the total amount of potential procurements under the QVL are anticipated to exceed

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\$150,000, the CO must make a public announcement. In addition, all potential procurements of products available from Federal Prison Industries that are anticipated to exceed \$10,000 must follow the public announcement provisions in AMS 3.2.1.3.12. If it is anticipated that a planned QVL will not exceed \$150,000 over its anticipated life and public announcement is not otherwise required, wide dissemination of the intention to establish the QVL would improve the chances of obtaining additional quality vendors.

4 Screening and Evaluation

- a. Prepare screening and evaluation procedures according to AMS Policy Section 3.
- b. The CO, in conjunction with the procurement team, should formulate appropriate evaluation criteria for screening and qualifying vendors. The procurement team should carefully craft evaluation criteria to focus on key discriminators. Evaluation criteria should be tailored to the particular requirement. The procurement team should develop an evaluation plan describing how vendors will be evaluated and against what criteria.
- c. The screening information request (SIR) indicates the following:
 - (1) A QVL is being established;
 - (2) Types of products or services anticipated to be solicited and awarded;
 - (3) Criteria vendors must meet to qualify for the QVL;
 - (4) Information prospective vendors must submit (including the submission due date);
 - (5) Duration of the QVL;
 - (6) A brief explanation of the award process for procurements once the QVL has been established, including any method for eliminating firms from the QVL for repeatedly failing to respond to SIRs;
 - (7) Method for selecting vendors to compete for a specific requirement once the QVL is established;
 - (8) Method for updating the QVL, including any method for requiring vendors to re-qualify for the QVL;

(9) Method for canceling the QVL; and

(10) Geographical area limitations, if appropriate.

5 Evaluating Prospective Vendors

- a. The CO should prepare an evaluation plan. Evaluators must follow the plan and criteria, and provide a thorough evaluation of the qualified vendors expressing an interest.
- b. The number of vendors on a QVL should be appropriate for the types of requirements being purchased.

6 Notifying Vendors Excluded from a QVL

- a. Notify vendors who were unsuccessful in qualifying for a QVL as soon as the decision is made on their individual submission, but no later than the issuance of the QVL. A debriefing should be provided, if requested, in accordance with AMS Policy Section 3.
- b. A public announcement is recommended upon establishing a QVL.

7 Competing Requirements Among Vendors on QVL

- a. Vendors are to be informed in the initial SIR establishing the QVL of the method of selection for competing for planned procurements under the QVL. The CO has discretion to tailor the method of QVL vendor competition to the planned requirements or to the size and nature of the QVL. Once the CO establishes a method of competing requirements, it must be used for all procurements under that particular QVL.
- b. There must be adequate competition for procurements under a QVL. The incumbent contractor should always be permitted to compete for any follow-on requirement solicited under the QVL, unless otherwise precluded from competing under follow-on competition by a specific Organizational Conflict of Interest provision or documented poor past performance.

8 Updating a QVL

- a. The CO should update QVLs on a periodic basis to allow new vendors an opportunity to qualify. There is no prescribed time when a QVL should be updated because every QVL will be different. Factors such as volume of procurements, size of the industry for the products or

services, time and effort involved in establishing a new QVL will influence how often a QVL is updated.

- b. At the stated time for updating a QVL, request a written confirmation of each vendor's desire to remain on the QVL. Any vendor not responding to the request for confirmation may be deleted as an indication of lack of interest. Vendors may request to withdraw at any time by submitting a written request to the CO.
- c. If at any time, a vendor on an established QVL has performance difficulties, changes ownership, or otherwise becomes less than highly qualified, the CO may request that vendor re-qualify by submitting qualification information again. Notify the vendor of the reasons it is being required to re-qualify.

9 Cancelling a QVL

There may be situations when a QVL becomes underutilized. In these cases, the CO should consider canceling the QVL, when it is in the best interest of the Government. When canceling a QVL, the CO should notify all vendors in writing and provide a brief explanation of the reasons and whether there are any plans to replace or combine the QVL requirements with other requirements.

10 Availability of Information

Names of firms on an established QVL should be provided to the public upon request. Potential subcontractors may wish to pursue opportunities which may exist for future projects. Also, the CO should consider sharing the information with other FAA offices. General information such as the nature of the QVL, vendor names, duration of the QVL, and a point of contact for further information could be distributed or posted on the Internet.

11 QVL for Products

Products must meet specification requirements. Simply because a product or service appears on a QVL does not constitute endorsement of the product, manufacturer, or other source by FAA. The listing of a product or source does not release the supplier from compliance with the specification. However, it must not be stated or implied that a particular product or source is the only product or source of that type qualified, or that FAA in any way recommends or endorses the products or the sources listed. Reexamining a qualified product or manufacturer is necessary when: the manufacturer has modified its product, or changed the material or the processing sufficiently so that the validity of a previous qualification is questionable; the requirements in the specification have been amended or revised sufficiently to affect the character of the product; or it is otherwise necessary to determine that the quality of the product is maintained in conformance with the specification. Vendors who furnish evidence that their products have successfully passed qualification are eligible for award even though not yet included on the

2 Past Performance Samples for Products, Services, and Construction Added 9/2020

2.1 Sample 1 - Past Performance Instructions Added 9/2020

Instructions for Providing Past Performance Information

Offerors must submit the following information as part of their proposal for both the offeror and proposed major subcontractors: (The information may be submitted prior to the other parts of the proposal, to assist the government in reducing the evaluation period).

- A. A list of the last “##” contracts and subcontracts completed during the past three years and all contracts and subcontracts currently in process. Contracts listed may include those

entered into by the federal government, agencies of state and local governments, and commercial customers. Offerors that are newly formed entities without prior contracts list contracts and subcontracts as required above for all key personnel. Include the following information for each contract and subcontract:

1. Name of contracting activity;
2. Contract number;
3. Contract type;
4. Total contract value;
5. Contract work;
6. Contracting Officer and telephone;
7. Program manager and telephone;
8. Administrative Contracting Officer, if different from # 6, and telephone; and
9. List of major subcontractors.

- B. The offeror may provide information on problems encountered on the contracts and subcontracts identified in A above and corrective actions taken to resolve those problems. Offerors provide general information on their performance on the identified contracts. General performance information will be obtained from the references. *(Use this paragraph if written input from the offeror is desired in addition to the information obtained from the references.)*

- C. The offeror may describe any quality awards or certifications that indicate the offeror possesses a high-quality process for developing and producing the product or service required. Such awards or certifications include, the Malcolm Baldrige Quality Award, other government quality awards, and private sector awards or certifications (e.g., the automobile industry's QS 9000, Sematech's SSQA, or ANSI/EIA-599). Identify what segment of the company (one division or the entire company) that received the award or certification. Describe when the award or certification was bestowed. If the award or certification is over three years old, present evidence that the qualifications still apply.
- D. Each offeror will be evaluated on its performance under existing and prior contracts for similar products or services. Performance information may be used for both responsibility determinations and as an evaluation factor against which offerors' relative rankings will be compared to assure best value to the government. The government will focus on information that demonstrates quality of performance relative to the size and complexity of the procurement under consideration. The Performance Information Form identified in the List of Attachments section will be used to collect this information. References other than those identified by the offeror may be contacted by the FAA with the information received used in the evaluation of the offeror's past performance.
- E. Offerors should send their listed private sector references a letter to the following effect authorizing the reference to provide past performance information to the Government.

Sample Client Authorization Letter (Optional)

Dear "Client":

We are currently responding to the Federal Aviation Administration's SIR No. _____ for the procurement of _____.

The FAA is placing increased emphasis in its procurements on past performance as an evaluation factor. The FAA is requiring that clients of entities responding to its SIRs be identified and their participation in the evaluation process be requested. In the event you are contacted for information on work we have performed, you are hereby authorized to respond to those inquiries.

We have identified Mr./Ms. _____ of your organization as the point of contact based on his/her knowledge concerning our work. Your cooperation is appreciated. Any questions may be directed to: _____.

Sincerely,

2.2 Sample 2 - Past Performance Evaluation Factors Added 9/2020

Past performance will be evaluated as follows:

1. Past performance will receive 35 percent of the non-cost/price factors ratings. Sub-factors A, B, C, D and E are of equal importance and will receive up to 25 percent of the non-cost/price ratings with the other 10 percent allocated to sub-factor G, quality awards. The criteria for a rating of excellent are described with each sub-factor.
 - A. Quality of Product or Service - compliance with contract requirements - accuracy of reports - technical excellence. Excellent = There were no quality problems.
 - B. Timeliness of Performance - met interim milestones - reliable - responsive to technical direction - completed on time, including wrap-up and contract administration
- no liquidated damages assessed. Excellent = There were no unexcused delays.
 - C. Cost Control - within budget - current accurate and complete billings - relationship of negotiated costs to actuals - cost efficiencies. Excellent = There were no cost issues.
 - D. Business Practices - effective management - effective small/small disadvantaged business subcontracting program - reasonable/cooperative behavior - flexible - effective contractor recommended solutions - business-like concern for government's interests. Excellent = Response to inquiries, technical/service/administrative issues was effective and responsive.
 - E. Customer Satisfaction - satisfaction of end users with the contractors service. Excellent = 90 percent or more of end users surveyed rated the service as excellent or better.
 - F. Where the offeror has demonstrated an exceptional performance level in any of the above five sub-factors additional consideration can be given by the procurement team for that factor. It is expected that this rating will be used in those rare circumstances when contractor performance clearly exceed the performance levels described as "excellent."
 - G. Receipt of widely recognized quality awards or certifications. Excellent = Malcolm Baldrige Quality award, or equivalent award, covering the entity submitting the offer.
2. Assessment of the offeror's past performance will be one means of evaluating the credibility of the offeror's proposal, and relative capability to meet performance requirements.

3. Information utilized will be obtained from the references listed in the proposal, other sources known to the FAA, consumer protection organizations, and others who may have useful and relevant information. Information will also be considered regarding any significant major subcontractors, and key personnel.
4. Award may be made from the initial offers without discussions. If discussions are held offerors are given an opportunity to address negative reports of past performance, if the offeror has not had a previous opportunity to review the rating. Recent contracts will be examined to ensure that corrective measures have been implemented. Prompt corrective action in isolated instances may not outweigh overall negative trends.
5. Lack of past performance history relating to this SIR (state how lack of past performance history will affect the evaluation, e.g. neutral rating).

2.3 Sample 3B - Past Performance Questionnaire Added 9/2020

SAMPLE 3B - PAST PERFORMANCE QUESTIONNAIRE		
I. CONTRACT IDENTIFICATION		
i.	Name:	
ii.	Description	
iii.	Geographic distribution of services under this contract, i.e., local, nationwide, worldwide:	
iv.	Number of locations serviced by this contract:	
II. EVALUATION		
A. PERFORMANCE HISTORY:		
1.	To what extent did the contractor adhere to contract delivery schedules.	Considerably surpassed minimum requirements 4 Exceeded minimum requirements 3 Met minimum requirements 2 Less than minimum requirements 1
		<i>Comment:</i>

2.	To what extent did the contractor submit required reports and documentation in a timely manner?	Considerably surpassed minimum requirements 4 Exceeded minimum requirements 3 Met minimum requirements 2 Less than minimum requirements 1
	Comment:	
3.	To what extent were the contractor's reports and documentation accurate and complete?	Considerably surpassed minimum requirements 4 Exceeded minimum contractual requirements 3 Met minimum requirements 2 Less than minimum requirements 1
	Comment:	
4.	To what extent was the contractor able to solve contract performance problems without extensive guidance from	Considerably successful 4 Generally successful 3

	government counterparts?	Little success 2 No success 1
	Comment:	
5.	To what extent did the contractor display initiative in meeting requirements?	Displayed considerable initiative 4 Displayed some initiative 3 Displayed little initiative 2 Displayed no initiative 1
	Comment:	
6.	Did the contractor commit adequate resources in timely fashion to the contract to meet the requirement and to successfully solve problems?	Provided abundant resources 4 Provided sufficient resources 3 Provided minimal resources 2 Provided insufficient resources 1
	Comment:	
7.	To what extent did the contractor submit change orders and other required proposals in a timely manner?	Considerably surpassed minimum requirements 4 Exceeded minimum requirements 3 Met minimum requirements 2 Less than minimum 1
	Comment:	
8.	To what extent did the contractor respond positively and promptly to technical directions, contract change orders, etc.?	Considerably surpassed minimum requirements 4 Exceeded minimum requirements 3 Met minimum requirements 2 Less than minimum requirements 1
	Comment:	
9.	To what extent was the contractor's maintenance and problem tracking/reporting documentation timely, accurate, and have appropriate content?	Considerably surpassed minimum requirements 4 Exceeded minimum requirements 3 Met minimum requirements 2 Less than minimum requirements 1

	Comment:	
10.	To what extent was the contractor effective in interfacing with the Government's staff?	Extremely effective 4 Generally effective 3 Generally ineffective 2 Extremely ineffective 1
	Comment:	
B.	TERMINATION HISTORY	
11.	Has this contract been partially or completely terminated for default or convenience?	Yes [Default Convenience] No If yes, explain (e.g., inability to meet cost, performance, or delivery schedules).
	Comment:	
12.	Are there any pending terminations?	Yes No If yes, explain and indicate the status.
	Comment:	
C.	EXPERIENCE HISTORY	
13.	How effective has the contractor been in identifying user requirements?	Extremely effective 4 Generally effective 3 Generally ineffective 2 Extremely ineffective 1
	Comment:	
14.	What level of integration experience has the contractor demonstrated in the reconfiguration of government owned software, commercial software, and government furnished hardware?	Considerable surpass minimum experience 4 Exceeded minimum requirements 3 Met minimum contractual requirements 2 Less than minimum requirements 1
	Comment:	
15.	To what extent was the maintenance and problem reporting/ tracking documentation produced by the contractor's efforts satisfactory to the users?	Considerably surpassed minimum requirements 4 Exceeded minimum requirements 3 Met minimum contractual requirements 2 Less than minimum requirements 1

	Comment:	
16.	To what extent did the contractor coordinate, integrate, and provide for effective subcontractor management?	<p>Considerably surpassed minimum requirements 4</p> <p>Exceeded minimum requirements 3</p> <p>Met minimum requirements 2</p> <p>Less than minimum requirements 1</p>
	Comment:	
17.	To what extent did the contractor provide timely technical assistance, both on-site and off-site, when responding to problems encountered in the field?	<p>Considerably surpassed minimum requirements 4</p> <p>Exceeded minimum requirements 3</p> <p>Met minimum requirements 2</p> <p>Less than minimum requirements 1</p>
	Comment:	
18.	To what extent did the contractor achieve effective logistics support, i.e., replacement parts, personnel, etc.?	<p>Considerably surpassed minimum requirements 4</p> <p>Exceeded minimum requirements 3</p> <p>Met minimum requirements 2</p> <p>Less than minimum requirements 1</p>
	Comment:	
19.	To what extent did the contractor provide quality replacement parts?	<p>Considerably surpassed minimum requirements 4</p> <p>Exceeded minimum requirements 3</p> <p>Met minimum requirements 2</p> <p>Less than minimum requirements 1</p>
	Comment:	
20.	To what extent did the contractor meet the repair/response times in the contract?	<p>Considerably surpassed minimum requirements 4</p> <p>Exceeded minimum requirements 3</p> <p>Met minimum requirements 2</p> <p>Less than minimum requirements 1</p>
	Comment:	
21.	Did this contract include a Help Desk?	Yes No

	If yes, to what extent was the contractor responsive to users contacting the Help Desk for assistance?	Considerably surpassed minimum requirements 4 Exceeded minimum requirements 3 Met minimum requirements 2 Less than minimum requirements 1
	Comment:	
22.	If there was a Help Desk, were users able to make contact with the Help Desk personnel on their first attempt?	Always able on the first attempt 4 More often than not on the first attempt 3 Rarely able on the first attempt 2 Never on the first attempt 1
	Comment:	
23.	Were the Help Desk personnel courteous and responsive?	Always courteous and responsive 4 Usually courteous and responsive 3 Rarely courteous and responsive 2 Never courteous and responsive 1
	Comment:	
24.	Were user questions resolved in a timely manner?	Always resolved in a timely manner 4 Usually resolved in a timely manner 3 Rarely resolved in a timely manner 2 Never resolved in a timely manner 1
	Comment:	
25.	How technically qualified were the Help Desk personnel?	Extremely qualified 4 Satisfactorily qualified 3 Minimally qualified 2 Technically deficient 1
	Comment:	
26.	How satisfied are you with the contractor's Help Desk problem escalation procedures?	Extremely satisfied 4 Satisfactorily satisfied 3

		Minimally satisfied 2 Unsatisfied 1
	Comment:	
27.	How technically qualified were the maintenance personnel?	Extremely qualified 4 Satisfactorily qualified 3 Minimally qualified 2 Technically deficient 1
	Comment:	
D. COST MANAGEMENT		
28.	To what extent did the contractor meet the proposed cost estimates?	Less than estimated cost 4 Comparatively equal to estimate 3 Exceeded the costs 2 Considerably surpassed estimate 1
	Comment:	
E.	NARRATIVE SUMMARY	Use this section to explain additional information not included above.
	Comment:	

2.4 Sample 3C - Business Management Past Performance Summary Added 9/2020

Part A. Contract Summary					
1. Contractor Name:				2. Contract Number:	
Street:				3. Contract Type:	
City:				4. Competitive:	yes no
State:		Zip Code:		5. Follow-on:	yes no
Telephone:				6. Period of Performance:	

7. Contract Cost Data		Estimated Cost	Fee	Total Value	
Firm Fixed Price					
Initial Contract Cost		\$	\$	\$	
Current Contract Cost		\$	\$	\$	
8. Product Description and/or Services Provided.					
Part B. Performance Evaluation of Contract (Summary)					
Performance Elements	Excellent	Good	Fair	Poor	Unsatisfactory
9. Quality of Work					
10. Timely Performance					
11. Effectiveness of Management					
12. Compliance with Labor Standards					
13. Compliance with Safety Standards					
14. Handling Staff Integrity Issues					
15. Facility Maintenance & Repair					
16. Personnel Management Practices					
17. Overall Evaluation					
18. Remarks on excellent performance. Provide data supporting this observation. <i>[Continue on separate sheet(s) if needed.]</i>					
19. Remarks on unsatisfactory performance. Provide data supporting the observation. <i>[Continue on separate sheet(s) if needed.]</i>					
Part C. Identification of Evaluator					
20. Name:		21. Organization:			
22. Title:		23. Date:			
NOTE: If verbal telephonic response received, complete the following:	24. Information obtained by:		25. Signature		

2.5 Sample 4 Survey Form Added 9/2020

Please provide concise comments regarding your overall assessment of the contractor's performance on the contract identified. Because of the nature of the contract to be awarded, please focus on system integration and installation aspects, when possible, rather than development or production. Please respond to each question in a narrative format. Please telefax your response to the attention of the following point of contact. Please call the individual cited before faxing your response.					
Responses are needed by					
Section 1. Identification of Point of Contact					
Program Name					
Name					
Address					
Telephone Number		Voice		FAX	
Section 2. Performance Verification					
Fact Finding Questionnaire for					
NOTE: We have reviewed the latest Contractor's Performance Annual Review (CPAR) on file		(dated)			
If you can provide any further information, please respond to the questionnaire. If there are no further updates, no further information will be required. <i>(Use this paragraph when looking for additional information on CPARs.)</i>					
Contract Information					
Contractor/Division:					
Program Name:					
Contract Type				Contract Number:	
Period of Contract				to:	
Respondent Identification					
Name				Position	
Telephone No. (Voice)				Telephone No. (FAX)	
Business Address					
City, ST				Zip Code	
Relation to Program:					
Give a brief, general description of what the contractor was required to deliver. (If the work included installation/integration of (WIDGET) systems, please identify locations and types of					

systems.) Please note that if a negative reply is supplied, a clarification request is submitted to the contractor, and they in turn have the right to be made aware of the comment.

Evaluation Criteria

1. Contractor Management

1.a. Discuss responsiveness of the contractor's upper level management to your organization's concerns and needs.

1.b. Describe how well the contractor's management interfaced with your staff and organization.

1.c. Discuss how well the contractor's management system provided visibility into progress/problems/risks in the technical, cost, and schedule areas, and how well the risks were minimized.

1.d. Discuss how well the contractor managed its subcontractors. (If there was a subcontractor, please include how the contractor maintained oversight of the sub.)

1.e. If your contract involved the issuing of delivery orders, please discuss any problems the contractor had in responding to them (e.g., excessive workload due to conflicts with other contracts).

2. Technical

2.a. Did the contractor exhibit and exercise a sound engineering approach to the contract?

2.b. Did the contractor personnel have adequate experience to perform the tasks required? (Please include specifics as to personnel to perform design, system integration, test, and equipment installations.)

2.c. Discuss how well the contractor met the specification requirements for the system, hardware, and software.

2.d. Discuss the contractor's ability to achieve the required reliability and maintainability without undue schedule delay or cost overrun.

2.e. How well was the contractor able to achieve a final design which was producible and supportable?

2.f. How well did the contractor respond when any technical problems were encountered (e.g., in areas of timelines and technical adequacy)?

2.g. If the contractor was required to perform work outside the Continental United States (CONUS), please indicate locations and types of work done; also please discuss how familiar the contractor was with CONUS work (e.g., work permits, local taxes, host nation agreements, etc.).	
2.h. When encountering problems in the field, was the contractor able to provide timely technical assistance both on-site and off?	
3. Logistics and Supportability	
3.a. Discuss any major problems incurred by the contractor in achieving effective logistics support.	
3.b. Was Contractor Logistics Support (CLS) part of the contract? If so, was CLS timely and effective?	
3.c. Discuss whether the support equipment and manuals were adequate.	
3.d. Did any product failures occur while under warranty? If so, please indicate how responsive the contractor was to correct the deficiency.	
4. Quality Assurance	
4.a. Discuss the contractor's quality assurance plan and its effectiveness.	
4.b. Discuss the contractor's quality control during system design, integration, test, and installation. (Please include discussion on amount of scrap, repair, and rework activities.)	
5. Schedule	
5.a. Did the contractor deliver on time? Discuss any schedule overruns and how the contractor minimized them.	
5.b. If there were schedule changes, please explain what percentage was attributed to government changes (or your organization's changes) or other factors.	
6. Cost	
6.a. Contract Dollar Amounts	
Original	
Current	

Estimate of Final				
For Award Fee Contracts				
Percentage of Award Fee Paid				
6.b. Were there cost overruns? If yes, how much was attributable to the contractor?				
6.c. Reasons for cost variances.				
7. Overall				
7.a. Based upon your answers to 1-6, how well did the contractor perform? (Mark with an "X".)				
	<u>Exceptional</u>	<u>Satisfactory</u>	<u>Marginal</u>	<u>Unsatisfactory</u>
Management				
Technical				
Log & Support				
Quality Assurance				
Schedule				
Cost				
7.b. Please provide any additional comments which you believe are important in the evaluation of the contractor's performance.				
7.c. If you had the change to do this again, would you use this contractor again?				
Thank you for your efforts and timely response.				
(Your Name)	Chairperson			
(Program Name)				

Section Revised: T3.2.2.4 – Single Source

Procurement Guidance - (1/2021)

T3.2.2.4 - Single Source Added 10/2006

A Single Source Contracting Added 10/2006

- 1 Basis for Single Source Revised ~~9/2020~~01/2021
- 2 Market Analysis Supporting Single Source Revised ~~9/2020~~01/2021
- 3 Award of Single Source Revised ~~9/2020~~01/2021

B Clauses Added 10/2006

C Forms Added 10/2006

D Appendices Revised 9/2020

- 1 Template For Single Source Justification For Products, Services, And Construction Added 9/2020
 - 2 Template For Single Source Justification For Real Property Transactions Added 9/2020
-

T3.2.2.4 - Single Source Added 10/2006

A Single Source Contracting Added 10/2006

1 Basis for Single Source Revised 9/202001/2021

(a) Single source procurement may be used when in the FAA's best interest. A factual, reasoned, and well-documented rationale must support the decision to use a single source. Excluding emergencies, there are no predetermined or prescribed conditions for using a single source. Each single source decision stands alone and is based on the circumstances.

(b) The rational basis for a single source decision must be documented by the service organization, reviewed by Legal for sufficiency, approved by the Service Organization Official and (if applicable) Contracting Officer's Representative (COR), and concurred with by Contracts or, for purchase card transactions, the Purchase Cardholder. All of this must be done consistent with the signature blocks of Appendices 1 and 2 below. This rationale is documented in a:

- (1) Stand-alone, single source justification using the templates in Appendices 1 or 2;
- (2) Procurement Plan, if a formal plan is established; or
- (3) Implementation Strategy and Planning Document, if applicable.

(c) Approval of Implementation Strategy and Planning Document or approval of a Procurement Plan constitutes approval of a single-source procurement; however, the rational basis for the single source decision must be reviewed by Legal for sufficiency; no further approval or documentation is necessary.

(d) For single source procurements with a total estimated potential contract value of \$10,000 or less, a justification is not required.

(e) A single source justification is not required for noncompetitive set-asides to an 8(a)-certified Socially and Economically Disadvantaged Business (SEDB), Service Disabled Veteran Owned Small Business (SDVOSB), Women-Owned Small Business (WOSB), or Historically Underutilized Business Zone (HUBZone) small business. (See AMS Procurement Guidance T3.6.1 "Small Business Program"). A single-source justification is also not required for procurements conducted in accordance with the Javits-Wagner-O'Day Act (Ability/One Program) or the Randolph- Sheppard Act as specified in AMS Guidance T3.8.4.

(f) A single source justification is not required for a site-specific requirement for land or antenna/equipment space, where the location of NAS equipment is (1) necessary to the functionality of the NAS, and (2) of continued criticality to the NAS or mission of the FAA; or for operational facilities that house equipment and/or personnel that provide Air Traffic Control services to aircraft operating in the NAS. The head of the Technical Operations service organization, or designee, will provide an annual determination identifying equipment and facilities subject to this subsection.

2 Market Analysis Supporting Single Source Revised 9/202001/2021

(a) Market analysis provides factual data to form conclusions and verify assumptions that FAA's technical and business interests are best served through a single source. For single source procurements over \$10,000, market analysis is required. A market analysis is not required for emergencies, set-asides to 8(a) SEDB, SDVOSB, WOSB, or HUBZone small businesses, or for NAS site-specific land or antenna/equipment space or operational facilities acquisitions referenced in AMS 3.2.2.4 and T3.2.2.4A (1)(f) above. The method and extent of the analysis depends on the requirement, complexity, and estimated dollar value. (See AMS Procurement Guidance T3.2.1.2 "Market Analysis" for further information.)

(b) A formal market survey is one method to gather current data to support a single source decision. When used, a formal market survey must include a sufficiently detailed description of key requirements (e.g. technical performance requirements, land or space requirements, or essential knowledge, expertise, or experience, etc.) so that potential vendors can determine whether they have the capability to satisfy FAA's requirements.

FAA also uses these key requirements to evaluate capabilities of any vendors/ lessors responding to the market survey. The market survey may include explicit instructions to potential vendors/ lessors about the acceptable format, form, and level of detail for vendor capability statements or other vendor/lessor information that FAA will use to decide whether other capable vendors/ lessors exist and whether a competitive procurement is appropriate. (For more information about real property specific Market Surveys, See Section 4.2).

3 Award of Single Source Revised 9/2020/1/2021

(a) After the required documentation, concurrences, approval and legal sufficiency are obtained for the single source justification as described above, the CO may negotiate contract terms and price or cost with the single source vendor and award the procurement action. Until the single-source justification in Appendices 1 or 2 is fully executed, no one may request any type of proposal information from the vendor.

(b) When the total estimated potential value of the procurement action is over \$150,000, the CO must issue a pre-award public announcement (excluding emergencies and other acquisitions that otherwise would not require announcement, e.g. Delivery Orders, Single Source SEDB, SDVOSB, WOSB, and HUBZone awards) summarizing the basis for the single source decision. The CO may make a post award announcement to promote potential subcontracting opportunities. (Also see AMS Procurement Guidance T3.13.1 "Other Administrative Procedures" for information about notifications to FAA management and Congress).

B Clauses Added 10/2006

[view contract clauses](#)

C Forms Added 10/2006

[view procurement forms](#)

APPENDIX 1 Added 9/2020

**TEMPLATE FOR SINGLE SOURCE
JUSTIFICATION FOR PRODUCTS, SERVICES,
AND CONSTRUCTION
(Word version found in Procurement Templates &
Samples at
https://fast.faa.gov/PPG_Procurement_Toolbox_Templates.cfm)**

1. Title of Procurement

Insert a brief title describing the requirement. Include the procurement request number, solicitation or contract number, if applicable.

2. Program Office and Point of Contact

State the title of the requiring organization, and name, email, and phone number of the responsible program official.

3. Nature of Procurement Action

State the nature of the procurement action, such as new contract award, follow-on contract to an existing contract, or modification expanding scope of an existing task order. Identify the proposed type(s) of contract. If an urgent requirement, state the date by which the procurement action must be awarded.

4. Total Estimated Value

State the total estimated value, including any options, ceiling amounts, and maximum order amounts. If optional quantities or performance periods are included, separately show the value of each (and include the amounts in the total estimated value).

5. Description of Supplies/Services

Describe the requirement for supplies or services to be acquired, deliverables and outcomes of the work, the intended use, and any unique requirements. Include total quantities and performance periods (the description of requirements may be broad enough to allow for quantity increases should the contract unit prices be lower than originally estimated or additional requirements become known). Detailed specifications or equipment lists should not be included. When possible, explain the requirement in non-technical terms.

If the requirement will result in a modification to an existing contract, distinguish clearly between work covered by the basic contract and the additional work to be obtained by the proposed modification.

Discuss any relevant background, history, events, or other special circumstances related to the requirement.

6. Authority

Authority for single source procurement is provided by AMS policy section 3.2.2.4. Cite any other authority if applicable, such as an international agreement.

7. Rationale Supporting Use of a Single Source

Discuss why it is in the FAA's best interest to use a single source. Provide a well-reasoned, detailed, and factual explanation. Conclusions about a single source, such as the vendor is the only known source, or no other vendor can satisfy the requirement within needed timeframe, or savings from competition will not recover sunk costs, must be supported by objective, factual information collected through market analysis or other means.

Identify the proposed single source contractor. Include a detailed discussion of the contractor's unique qualifications, experience, past performance, expertise, specialized products or services, proprietary data, or other capabilities. Link the contractor's capabilities to FAA's requirements.

Describe technical benefits and potential cost savings that would result from using a single source versus benefits of conducting a competitive procurement that might result in another vendor performing the work.

Address other factors as applicable, such as the following:

Impact. Fully describe any impact to the mission of the requiring organization if the single source product or service could not be provided. Explain why the impact cannot be tolerated. Give factual examples about the nature, likelihood, and severity of impact. Include cost estimates and other factual data about the impact, as appropriate.

Specialized Expertise. Explain why a particular expertise, experience, or skill is critical. Discuss why the single source vendor is the only source that has the specialized expertise. Explain why other FAA contractors providing or supporting NAS products and services do not have the required expertise. Describe the impact of not using the single source in terms of feasibility, time, and cost of another vendor obtaining sufficient expertise.

Follow-on Contracts. If a follow-on procurement for development, production, or sustainment, discuss any duplication of cost not expected to be recovered through competition or unacceptable delays in fulfilling requirements. Include data to support conclusions such as an estimates of costs that would be duplicated or length of delays for transition to another contractor, and basis for the estimates.

Standardization. If a follow-on contract is to standardize on one vendor's product or service, discuss duplication of costs not expected to be recovered through competition or unacceptable delays in terms of the overall lifecycle of a product or service. Discuss duplicated costs and learning curves in areas such as testing, familiarization, and certification; physical integration

and interoperability; configuration management; security certifications; controller and other workforce training; integrated logistics support; maintenance, repair, and other depot or operational engineering support; maintenance infrastructure; airspace design and procedural changes; and *flight inspections*. Include factual examples and data to support conclusions.

Interim/Bridge Contracts. If the requirement is for an interim/bridge contract or contract extension because of urgent or unusual circumstances, include a complete explanation for extended period of performance. Discuss why it would be neither cost effective nor realistic for another contractor to perform during the interim/bridge period. Explain issues such as transition plans, startup costs, staffing and recruitment, transfer of property and equipment, retooling, and learning curves for the complexity and variety of requirements. Provide factual examples of transition issues, estimated times, and estimated duplication of costs if a different vendor were awarded an interim/bridge contract.

External Mandate. If the requirement was mandated externally, discuss who imposed the requirement, how it was communicated, authority to direct the procurement action, and why single source is the best means of satisfying the mandated requirement. Attach a copy of any relevant documentation describing the external mandate.

Time Constraints. If time is a key factor, identify when the requirement first became known, explain the significance of meeting the time constraint, and criticality of time to the organization's mission. Define quantitatively the impact of not meeting the time constraint, and why there is insufficient time to conduct a competitive procurement. Discuss cost and time to conduct a competitive procurement, transition time from one contractor to another, and whether it could be done within the time limitations.

Patents, Proprietary Data, and Unique Items. Discuss any constraints such as patents, proprietary data, copyrights or other such limitations. Explain whether the vendor will provide any data, specifications, drawings, or source code to the FAA. Discuss whether individual components of a proprietary item can be competitively acquired from other vendors. Discuss whether the item could be reverse engineered. Describe estimated cost and time to obtain rights to data or for FAA to separately develop the proprietary item.

Unsolicited Proposal. If the single source is based on an unsolicited proposal, show that it meets the criteria for a legitimate unsolicited proposal (independently originated, innovative, and unique) and discuss benefits of adopting the proposal.

8. Market Analysis

Describe in detail the market analysis conducted to identify other qualified sources. If market analysis was not conducted, explain the circumstances.

Discuss sources of market data, level of analysis, and conclusions drawn about any other vendor's capabilities, products or services.

State whether a formal market survey was issued, when, and for how long the announcement was open. Include a listing of vendors that expressed written interest in the public announcement. Describe criteria used to evaluate vendors responding to the market survey, reasons for rejecting each vendor, person evaluating the responses and when. If no vendors

responded to the market survey, include a statement to that effect.

If a prior market survey is used, discuss when the prior survey was conducted, the results, and why the information is still current and relevant.

Discuss evaluation of data from any internal market survey conducted.

9. Other Facts Supporting Use of Single Source

Discuss any other factors supporting use of a single source.

Include a statement about future actions to be taken, or not to be taken (e.g., no future similar requirements are anticipated), to identify alternate or additional vendors for the same or similar requirements. Discuss any actions to ensure that the prime contractor obtains competition in subcontracting.

ENDORSEMENT

*Note this language is to be part of the endorsement only in cases of emergency procurements per AMS Policy 3.2.2.4.1.1.

I certify that the supporting data under my cognizance that are included in this justification are accurate and complete to the best of my knowledge and belief.

I further certify that I will be involved in Screening Information Request (SIR) activities pertaining to this procurement. I will have knowledge of and access to confidential and proprietary procurement information and data concerning the selection process such as, procurement strategy, the offeror's proposal, results of evaluations, and the final selection actions. I will not disclose any information of a commercially sensitive or source selection sensitive nature, which is obtained by virtue of participation on the procurement team. Further I will ensure that such information is not used by other persons, companies or organizations to obtain an unfair advantage. **I further certify that I have not requested any proposal information as identified in AMS Guidance T3.1.8A.2(1), communicated any source selection information as identified in AMS Guidance T3.1.8A.2(2), nor communicated an intent to execute a single source contract from or to only the source identified in section 7 prior to the full execution of this single-source justification.**

**Because of the emergency nature of the procurement as stated herein (which involves a threat to loss of life or property, national security, or restoration of an air traffic control facility or to repair critical facility systems to prevent loss of air traffic capability), it was determined that immediate contracting with a single source was required, and that it was necessary to verbally authorize the contractor to start work once the funds were committed and then combine single source phases or complete single source activities after the fact per AMS Policy 3.2.2.4.1.1.*

CONFLICT OF INTEREST

As a member of the procurement team, I hereby agree to abide by the FAA Acquisition Management System; the Standards of Ethical Conduct for Employees of the Executive Branch, 5 C.F.R. pt. 2635; federal criminal law regarding bribery, graft, and conflicts of interest, 18 U.S.C. §§ 201-209, 216; and the Procurement Integrity Act, 41 U.S.C. §§ 2101-2107. Further, as a participant in the procurement selection activities, I hereby certify to the following:

(1) I have not been employed by the source identified in Section 7 above nor any of its subsidiaries. In addition, neither I, my spouse, or any of my dependent children, or other blood relatives who are residents of my household (hereinafter “I”), now own any bonds, stocks, or stock options, or have any other financial interest, including but not limited to current or future employment or contract rights, in or with respect to the aforementioned Source. I do not have any financial commitments to the source. I am not currently serving as an officer, director, trustee, general partner or employee of the Source.

(2) Neither I, nor to the best of my knowledge and belief, my spouse or any of my minor children have any intention or expectation of obtaining employment with, contracting with, or acquiring stocks, stock options, or bonds in or with respect to the Source for this requirement.

I understand that failure to comply with the above will result in termination of my participation in this procurement and may result in disciplinary action and/or referral for civil or criminal action.

Service Organization Official Approval

Name:	_____
Signature:	_____
Organization:	_____
Date:	_____

Contracting Officer's Representative (COR) (if applicable) Approval

Name:	_____
Signature:	_____
Organization:	_____
Date:	_____

Contract Specialist (if applicable) Concurrence

Name:	_____
Signature:	_____
Organization:	_____
Date:	_____

Contracting Officer or Purchase Cardholder Concurrence

Name:	_____
Signature:	_____
Organization:	_____
Date:	_____

AAQ Branch Manager Concurrence

Name:	_____
Signature:	_____
Organization:	_____
Date:	_____

Legal Sufficiency

Name:	_____
Signature:	_____
Organization:	_____
Date:	_____

APPENDIX 2 Added 9/2020

**TEMPLATE FOR SINGLE SOURCE
JUSTIFICATION FOR REAL PROPERTY
TRANSACTIONS**

(1) Name/Type of Real Property Acquisition Transaction

- a. Name of Real Property Acquisition Transaction
- b.** Type of Real Property Acquisition Transaction (i.e. land, space, real property related services, etc.). *Please note that purchase cards can only be utilized for real property*

related service transactions (See AMS Guidance 3.2.2.5 for additional information on real property related services.)

c. Existing Lease/Contract Number (if applicable)

d. Nature of Procurement Action:

- ☐ **New Requirement**, where there is no pre-existing contract at the proposed location
- ☐ **Modification of Existing Lease/Easement**, where there is a preexisting contract, and the scope and/or location of the lease is modified
- ☐ **Lease/Easement Extension**, where there is a non-expired, preexisting contract at the same location
- ☐ **Succeeding Lease/Easement**, where there is an expired, preexisting contract at the same location (See Note 1, below, for further instruction.)

e. Program Office and Point of Contact

State the title of the requiring/occupying organization, and name, email, and phone number of the responsible program official and/or APM real property portfolio manager.

(2) Authority for Single Source: AMS Policy 3.2.2.4, *Single-Source Selection*

(3) Description of Requirement

- a. intended use
- b. amount of space/land needed
- c. delineated area
- d. estimated length of need, if appropriate, internal discussions regarding purchase of real property interest
- e. time factors (not related to poor procurement planning)
- f. opportunities (or lack thereof) for collocation
- g. special requirements
- h. other special considerations

(4) Total Estimated Potential Value

(5) Rationale for Single Source Justification

a. *Cite Rationale –*

i. only one available Lessor/Grantor/Seller

ii. cost/benefit analysis (See Note 1, below, for further instruction.)

b. *Support for Rationale – Market Research/Analysis.* Relate findings of market research to the rationale stated above. Explain why it is in the FAA's best interest not to compete the action as evidenced by the data collected from the market. Research must be (1) requirement specific; and (2) tailored to the cited rationale. This section should detail:

- i. method of research
- ii. findings, including, but not limited to:

1. record of communications with market sources about the specific requirement, if any
2. availability of land/space that meets the specific requirement
- iii. relate findings to rationale and requirement

Note 1: If the purpose of this document is to extend a pre-existing lease or to award a succeeding lease (“staying in place”), a thorough market research and analysis of potential lessors, including the incumbent, is required as part of the rationale. The market research and analysis must include communications regarding the specific requirement, including all updated safety and health requirements.

If the current property does not meet existing health and safety requirements, then the rationale must discuss either (1) plans to bring the current Lessor into compliance; or (2) consideration given for non-compliance. The justification must include programmatic approval.

If a cost-benefit analysis cites “moving costs” as a reason to stay-in-place, then the rationale must discuss the option of amortization of moving costs with other potential sources. All communications must be documented.

If cost-benefit analysis is necessary to the justification, select the alternate certification below.

(6) Conclusion

(7) ENDORSEMENT

I certify that the supporting data under my cognizance that are included in this justification are accurate and complete to the best of my knowledge and belief.

I further certify that I may be involved in Screening Information Request (SIR) activities pertaining to this procurement. I will have knowledge of and access to confidential and proprietary procurement information and data concerning the selection process such as, procurement strategy, the offeror’s proposal, results of evaluations, and the final selection actions. I will not disclose any information of a commercially sensitive or source selection sensitive nature, which is obtained by virtue of participation on the procurement team. Further I will ensure that such information is not used by other persons, companies or organizations to obtain an unfair advantage.

I further certify that either:

☐ **I have not requested any proposal information as identified in AMS Guidance T3.1.8A.2(1), communicated any source selection information as identified in AMS Guidance T3.1.8A.2(2), nor communicated an intent to execute a single source contract from or to only the source prior to the full execution of this single-source justification; or, as an alternate:**

☐ **I have conducted cost/benefit analysis in connection with this justification, communicating with and/or comparing costs from more than one source, but have not communicated an intent to execute a single source contract to any source.**

CONFLICT OF INTEREST

As a member of the acquisition team, I hereby agree to abide by the FAA Acquisition Management System; the Standards of Ethical Conduct for Employees of the Executive Branch, 5 C.F.R. pt. 2635; federal criminal law regarding bribery, graft, and conflicts of interest, 18 U.S.C. §§ 201-209, 216; and the Procurement Integrity Act, 41 U.S.C. §§ 2101-2107. Further, as a participant in the procurement selection activities, I hereby certify to the following:

- (1) I have not been employed by the source identified above nor any of its subsidiaries. In addition, neither I, my spouse, or any of my dependent children, or other blood relatives who are residents of my household (hereinafter "I"), now own any bonds, stocks, or stock options, or have any other financial interest, including but not limited to current or future employment or contract rights, in or with respect to the aforementioned Source. I do not have any financial commitments to the source. I am not currently serving as an officer, director, trustee, general partner or employee of the Source.
- (2) Neither I, nor to the best of my knowledge and belief, my spouse or any of my minor children have any intention or expectation of obtaining employment with, contracting with, or acquiring stocks, stock options, or bonds in or with respect to the Source for this requirement. I understand that failure to comply with the above will result in termination of my participation in this procurement and may result in disciplinary action and/or referral for civil or criminal action.

ENDORSEMENT OF OFFICE REQUESTING TRANSACTION

I certify that the supporting data under my cognizance that are included in this justification are accurate and complete to the best of my knowledge and belief.

Service Organization Official Approval

Name:	_____
Signature:	_____
Organization:	_____
Date:	_____

Contracting Officer's Representative (COR) (if applicable) Approval

Name:	_____
Signature:	_____
Organization:	_____
Date:	_____

Legal Sufficiency

Name:	_____

Signature:	_____
Organization:	_____
Date:	_____

Contract Specialist (if applicable) Concurrence

Name:	_____
Signature:	_____
Organization:	_____
Date:	_____

Contracting Officer or Purchase Cardholder Concurrence

Name:	_____
Signature:	_____
Organization:	_____
Date:	_____

AAQ Branch Manager Concurrence

Name:	_____
Signature:	_____
Organization:	_____
Date:	_____

Section Revised: T3.2.2.5 – Commercial and/or Simplified Purchase Method

Procurement Guidance - (~~10/2020~~1/2021)

T3.2.2.5 – Commercial and/or Simplified Purchase Method Revised 1/2016

A Simplified Purchasing

~~12~~¹ Simplified Purchasing Revised ~~10/2020~~01/2021

~~13~~² Purchase Orders Revised ~~9/2020~~01/2021

~~14~~³ Blanket Purchase Agreement (BPA) Revised 10/2020

~~15~~⁴ Prohibited and Restricted Purchases Revised 9/2020

~~16~~⁵ FAA Sponsored Conferences, Seminars,
Ceremonies, and Workshops Revised 9/2020

B Clauses

C Forms

A Simplified Purchasing

~~d.1~~ Simplified Purchasing Revised ~~10/2020~~1/2021

~~e.a.~~ *Scope of Simplified Purchasing.* Simplified purchasing covers methods used to obtain noncomplex products or services through a contract, purchase order, blanket purchase agreement, and Federal Supply Schedule order. For purpose of AMS Guidance T3.2.2.5, the term “services” also includes real property related services such as appraisals, titles, surveys, and renting of portable or short term storage units. Simplified purchase methods apply to noncomplex products or services that have been sold at established catalog or market prices or where prices can be determined fair and reasonable (see AMS Policy 3.2.2.5).

~~d.b.~~ *Simplified Purchasing vs. Complex Source Selection.* The complexity of FAA’s requirement shapes the complexity of the process to solicit, evaluate, and select a vendor. Contracting methods described in AMS Policy 3.2.2.3, Complex Source Selection, are generally not a time and/or cost efficient means for acquiring noncomplex products or services. There are exceptions to this consideration, such as when the procurement involves cost-reimbursement pricing or indefinite-delivery arrangements-- both noncomplex and complex work is required, in- depth evaluation is needed to select the best qualified vendor, or extensive contract terms and conditions are necessary.

~~e.c.~~ Authorized users of the FAA purchase card must use methods described in T3.2.6 when procuring items; however, Contracting Officers (CO) or others delegated procurement authority outside of the purchase card program may determine, based on the factors surrounding each procurement, which purchasing method is appropriate, Simplified Purchase Method or Complex Source Selection.

~~f.d.~~ *Micro-Purchase Threshold.*

•~~(1)~~ Simplified purchases with a total estimated potential value (TEPV) under the applicable micro-purchase threshold must be performed using the purchase card.

•~~(2)~~ The micro-purchase thresholds are:

•~~(a)~~ \$10,000 for commercial supplies;

•~~(b)~~ \$10,000 for construction (Note: Above \$10,000 may not be done as a simplified purchase); and

•~~(c)~~ \$10,000 for services.

•~~(3)~~ Procurement requests under the micro-purchase threshold must not be submitted for award under a contract unless approved by the cognizant procurement office.

g.e. *Funding*. All applicable funding requirements detailed in AMS Procurement Guidance T3.3.1 apply to procurement conducted using simplified methods. These include:

- (1) Compliance with the Anti-Deficiency Act;
- (2) Ensuring sufficient funds are available;
- (3) Ensuring awards made subject to the availability of funds include the appropriate AMS Clauses (i.e., AMS Clause 3.3.1-10, Availability of Funds, or AMS Clause 3.3.1-11, Availability of Funds for the Next Fiscal Year); and
- (4) Ensuring that severable services crossing fiscal years are awarded using appropriate funds, and that the contract period does not exceed one year.

h.f. *Mandatory Sources and Other Requirements*. When using simplified purchase methods, COs or others with procurement authority (to include purchase card holders) must consider the following requirements:

- (1) *Strategic Sourcing Initiatives*. This includes the following:
 - (a) Strategic Sourcing for the Acquisition of Various Equipment and Supplies (SAVES). The SAVES program is a mandatory source for some equipment and office supplies (see AMS Procurement Guidance T3.8.6).
 - (b) Enterprise software licensing agreements such as Oracle.
- (2) *Federal Prison Industries, Inc. (FPI) (also known as UNICOR)*. For those products available through FPI, the procedures detailed in AMS Procurement Guidance T3.8.4, Government Sources of Products/Services, must be strictly followed.
- (3) *Randolph-Sheppard Act*. FAA must first consider the blind in the operation of vending facilities. (See AMS Procurement Guidance T3.8.4)
- (4) *Javits-Wagner-O'Day Act (JWOD)*. FAA must first consider items and services available through the AbilityOne Program (formerly JWOD) before going to other sources. (See AMS Procurement Guidance T3.8.4)
- (5) *General Services Administration (GSA) Federal Supply Schedules (FSS)*. When procuring items through a GSA FSS, FAA must follow the procedures detailed under AMS Procurement Guidance T3.8.3, Federal Supply Schedules. Note that GSA is not a mandatory source for FAA.
- (6) *Section 508 Requirements*. FAA must procure products and services that comply with federal requirements for Section 508 of the Rehabilitation Act. (See AMS Procurement Guidance T3.2.2.3.B.4)

•(7) *Environmental Requirements.* FAA should acquire environmentally preferable, energy and water efficient, and recycled content products and services when possible. (See AMS Procurement Guidance T3.6.3 for additional information)

•(8) *Labor Laws.* Depending on the nature of the requirement, FAA must comply with applicable labor laws when conducting procurements (i.e. the Service Contract Labor Standards for applicable services over \$10,000, and the Walsh-Healey Public Contracts Act for materials, supplies, articles, or equipment exceeding \$15,000). (See AMS Procurement Guidance T3.6.2 for additional information)

i.g. *Set-asides.* Purchases for products or services with the exception of real property related services with an anticipated value between \$10,000 and ~~\$150~~250,000, except those conducted using a purchase card, are automatically reserved for competition among SEDB (8(a))~~),~~ WOSB, and/or HUBZone vendors, unless the purchaser, with review of the cognizant Small and Small Disadvantaged Utilization Specialist, determines there is not a reasonable expectation of obtaining quotes or offers from responsible SEDB 8(a)~~),~~ WOSB, and/or HUBZone concerns that are competitive in terms of market prices, quality, and delivery. More information on set-asides, to include SEDB 8(a) and others, is available in AMS Procurement Guidance T3.6.1.

j.h. *Competition.*

•(1) *Over \$10,000.* Purchases over \$10,000 must be competed among two or more qualified vendors, unless the proposed action is supported by a single source justification or is set-aside under a small business preference program authorizing noncompetitive awards.

•(2) *\$10,000 and under.* Competition is encouraged, but not mandatory for purchases \$10,000 and under. Purchasers should consider the administrative cost of the purchase versus potential savings that could result from competition. Purchases \$10,000 and under on a single source basis do not require file documentation justifying the single source decision. However, purchasers should use sound business judgment and have a documented reasonable basis for any decisions involving purchases.

•(3) Purchasers may obtain competition by reviewing commercial catalog/price lists, or by soliciting quotes informally by telephone, email, or fax, or formally through written or electronic methods of request for quotation or offer.

k.i. *Solicitation.*

•(1) *Request for Quotation.* A request for quotations (RFQ) may be used to obtain information on prices and availability of products and services. An RFQ is generally used when the purchaser expects to place an order, but does not wish to bind the vendor at the time the quotation is received. All of the terms and conditions to be included in any purchase that may result from the RFQ are to be included in the RFQ. An RFQ may be either written or oral.

•(2) *Request/Solicitation for Offer.* A request/solicitation for offer (RFO/SFO) is

appropriate when the purchaser needs some amount of discussion to clearly communicate needs and to understand products and services being offered. The purchaser should discuss all aspects of the RFO/SFO, including quality, warranty, payment and other significant aspects included in a written RFO/SFO. An RFO/SFO may be used when non-price-related information and evaluation is necessary.

1.j. *Discounts.* Quantity discounts are usually offered for purchasing a specific quantity or dollar value of items at one time, or a specified dollar total over an agreed-upon time period. A trade discount from the catalog/commercial list price is one that is offered to all customers by a vendor. This may include promotion of seasonal, new or slow-selling items or special discounts offered by a manufacturer or dealer. A prompt payment discount is one that is offered by a vendor for payment by the Government before the date payment is due. Such discounts are not considered in the evaluation of quotes or offers, but any discount offered is included in the award. The purchaser should seek discounts when appropriate.

m.k. *Competition- Evaluation and Basis for Award.*

•(1) Purchasers must consider all timely and responsive quotations or offers received. Individual RFQs/RFOs must define the requirements for timeliness and responsiveness.

•(2) Requirements solicited on an all-or-none basis specify that prospective vendors must furnish all of the requested items to be considered for award. If vendors are informed in the request for quotation or offer, the purchaser may consider the lowest cost alternative between a single award and multiple awards based on the prices for each item and the administrative costs of making multiple awards.

•(3) An award is made to the responsive and responsible vendor offering the best value to FAA. Purchasers may evaluate vendors on the basis of lowest priced, technically acceptable offer or quote, which will result in the best value to FAA.

•(4) Non-price related evaluation factors, such as past performance, quality of product/space/land offered, vendor qualifications, delivery terms or warranties, may also be evaluated but must be communicated to vendors.

n.l. *Price Reasonableness.*

•(1) *Purchases of \$10,000 or less.* Purchasers do not need to document price analysis for purchases when they find no justifiable reason to question that the price is fair and reasonable. The administrative cost of verifying price reasonableness of purchases may more than offset potential savings from detecting instances of overpricing. When there are doubts about the reasonableness of the price, the purchaser should obtain additional quotes or take other action to verify price reasonableness, such as reviewing current published price lists, reviewing historical prices for purchases of the same or similar item or service, or requesting data from the vendor on sales prices to other customers.

•(2) *Purchases Over \$10,000.* Procurements over \$10,000 must be supported by a written determination by the purchaser that the price is fair and reasonable. When possible, this determination is based on competition. When awards are made without

competition or when only a single responsive quote or offer is received, the purchaser must use other price analysis techniques to determine if the price is reasonable. Price analysis techniques that the purchaser may consider, along with the independent Government cost estimate, include:

- ▲(a) Comparison of prior pricing for the same or similar items or services in comparable quantities;
- ▲(b) Application of rough yardsticks (e.g. dollars per pound or horsepower) to highlight significant inconsistencies that warrant additional pricing inquiry;
- ▲(c) Comparison with current published catalog or market prices, similar indexes, or discount or rebate arrangements;
- ▲(d) Ascertaining that law or regulation establishes pricing; and
- ▲(e) Other information gained through a market survey for similar products or services. (See AMS Guidance T3.2.1.2 Market Analysis for additional information on market surveys).

~~o.m.~~ *Documenting the Award Decision.* Purchasers should have a rational basis for purchasing decisions. The extent of documentation substantiating purchase decisions depends on the value and circumstances of the purchase. If the purchase involves an item that is a viable exemption to an applicable prohibition or restriction (See AMS Procurement Guidance T3.2.2.5.A.4, Prohibited and Restricted Purchases), then the award decision must, despite the dollar value of the purchase, document the basis and background for the purchase.

▲(1) *Purchases of \$10,000 or less.* Documentation is not required except for awards that, without documentation, would appear questionable to a “reasonable person” with market knowledge of the products or services being purchased.

▲(2) *Purchases over \$10,000.* The purchaser must record prices received, names of vendors contacted, and discounts, and other terms quoted by each vendor. If competitive quotes or offers were solicited and award was made to other than the lowest priced, technically acceptable vendor, the purchaser must document evaluation criteria and results, and basis for the award decision.

~~p.n.~~ *Rotating Awards for Requirements of \$10,000 or less.* When possible and economically feasible, purchasers should distribute simplified purchase awards of widely available products and services among vendors.

~~q.o.~~ *Requisitioner Role.*

▲(1) The requisitioner defines the requirement by supplying applicable information or documentation to the purchaser that includes, but is not limited to, the following:

- ▲(a) Part numbers;

- (b) Item descriptions;
- (c) Statements of work and specifications;
- (d) Packaging and shipment requirements;
- (e) Inspection and acceptance requirements;
- (f) Funding and any required approvals; and
- (g) Suggested vendors.

• (2) As necessary, the requisitioner may assist the purchaser with evaluation of offered products and services.

• (3) As part of market research, requisitioners may contact potential vendors about product or services offered, pricing, quality, warranty, delivery terms, and other information. Requisitioners should clearly communicate to prospective vendors that the contact is for market research purposes only and is not a commitment to purchase.

~~r.p.~~ *Inspection and Acceptance.*

• (1) Acceptance by a FAA representative constitutes acknowledgement that the supplies or services received conform to applicable contract or purchase requirements. Acceptance is documented using an inspection and acceptance form such as FAA Form 256, by a commercial shipping document or packing list, or through other means to include annotation on the purchase order form, or payment of valid invoice.

• (2) Acceptance of the supplies or services is the responsibility of the CO or cardholder. This responsibility may be assigned to a program office or center representative.

• (3) Each award must specify the place of acceptance as well as other necessary acceptance provisions.

e.2 Purchase Orders Revised 10/202001/2021

~~e.a.~~ *Purchase order.* A purchase order is a simplified form for ordering supplies or services, generally issued on a fixed-price basis, at stated prices based upon specified terms and conditions. Purchase orders must specify the quantity of supplies or scope of services being ordered and contain a date by which the goods or services must be delivered to FAA.

~~e.b.~~ *Unpriced purchase orders.* An unpriced purchase order is an order for supplies or services that does not have a price established at the time of its issuance.

▲(1) An unpriced purchase order may be appropriate when:

▲(a) It is impractical to obtain pricing in advance of issuance of the purchase order; or

▲(b) The purchase is for repairs to equipment requiring disassembly to determine the nature and extent of repairs; the material is available from only one source and for which cost cannot be readily established; or the order is for supplies or services for which prices are known to be competitive but exact prices are

not known (e.g. miscellaneous repair parts, maintenance agreements).

▲(2) Unpriced purchase orders may be issued by using written purchase orders or through various electronic means. A realistic monetary limitation, either for each line item or for the total order, should be placed on each unpriced purchase order. The monetary limitation becomes an obligation subject to adjustment when the firm price is established. The contracting office should follow-up each order to ensure timely pricing. The Contracting Officer (CO) or designated representative should review the invoice price and, if reasonable, process the invoice for payment.

e.c. *Content.* Purchase orders should contain the following information:

▲(1) Trade and prompt payment discounts that are offered;

▲(2) The quantity of supplies or services ordered;

▲(3) Inspection provisions; origin or destination;

▲(4) A determinable date by which delivery of supplies or performance of services is required; and

▲(5) Information should be requested by the preparer of the purchase order as follows:

▲(a) Vendor's SSN or taxpayer identification number (TIN);

▲(b) Vendor's business status as one of the following classifications:

▲(i) Individual/sole proprietorship;

▲(ii) Corporation;

▲(iii) Partnership; or

▲(iv) Other (specify);

▲(6) The CO's signature. Electronic signatures may be used in the production of purchase orders by automated methods (see AMS Policy 3.1.9).

~~f.d.~~ *Clauses.* The CO may print on the purchase order form, or include as an attachment, the clauses they consider to be generally suitable for their purchases. The following forms may be used for purchase orders:

~~e.a.~~ Optional form 347, Order for Supplies or Services;

~~d.b.~~ Optional form 348, Order for Supplies or Services Schedule-Continuation; or

~~e.c.~~ Other agency generated or contractor provided forms.

~~g.e.~~ *Procedure.* Procurement under a purchase order valued over \$10,000 must be competed among two (2) or more qualified vendors, unless ~~the~~ action is supported by a single source justification (AMS Procurement Guidance T3.2.2.4) or conducted under a small business preference program authorizing noncompetitive awards (AMS Procurement Guidance T3.6.1).

•(1) *Competitive Awards.*

•(a) Before issuing a request for quotations (RFQ), the CO should develop a listing of potential sources based on the requirement. This list can be derived from sources to include, but not limited to:

•(i) Previous vendors utilized in FAA or source lists kept in the contracting offices;

•(ii) Qualified vendor lists;

•(iii) The requiring or program office;

•(iv) System for Award Management (SAM); and

•(v) The Small Business Program (AAP-20).

•(b) All procurements over \$150,000 must be publicly announced on beta.SAM.gov Contract Opportunities website or through other means. This requirement does not apply to emergency actions, purchases from an established QVL, exercise of options, or modifications within the scope of a purchase order.

•(c) Once a list of potential sources is available, the CO should solicit as many sources as practicable, but must solicit quotations from at least two or more sources. A listing of the vendors to whom the RFQ was distributed, as well as any responses or quotes, must be included in the official file.

•(d) Prior to award of the purchase order, the CO must confirm that the vendor is not listed in the "Exclusions" portion of the "Performance Information" capability of SAM and has successfully registered in SAM. The CO should document this process in the file, which may include simply printing the results from each search or including a statement of the checks being completed in a

memo to file.

•(e) *Vendor Selection.* Once a qualified and responsible vendor is selected, the CO must support the decision with a written determination that the price is fair and reasonable and that the award is in the best interest of FAA. This determination must be included in the official file.

•(f) *Price Analysis/Reasonableness.* See AMS Procurement Guidance T3.2.3.A.1.

•(2) *Single source awards.*

•(a) The rational basis for a single source decision must be documented by the service organization, reviewed by Legal for sufficiency, approved by the Service Organization Official, and concurred with by Contracts or, for purchase card transactions, the Purchase Cardholder. The single source documentation must be included in the official contract file.

•(b) There are no predetermined or prescribed conditions for using a single source, and each single source decision stands alone and must be based on the circumstances surrounding each specific need.

•(c) Single source procurements over \$10,000 (excluding emergencies) require market analysis to verify that FAA's technical and business interests are best met through a single source.

•(d) A single source justification is not required for noncompetitive set-asides to an 8(a)-certified Socially and Economically Disadvantaged Business (SEDB) ~~or~~ Service Disabled Veteran Owned Small Business (SDVOSB), Women-Owned Small Business (WOSB), or Historically Underutilized Business Zone (HUBZone) small business. (See AMS Procurement Guidance T3.6.1 "Small Business Development Program"). A single-source justification is also not required for procurements conducted in accordance with the Javits-Wagner-O'Day Act (Ability/One Program) or the Randolph-Sheppard Act as specified in AMS Guidance T3.8.4.

•(e) A single source justification is not required for a site-specific requirement for land or antenna/equipment space, where the location of NAS equipment is (1) necessary to the functionality of the NAS, and (2) of continued criticality to the NAS or mission of the FAA; or for operational facilities that house equipment and/or personnel that provide Air Traffic Control services to aircraft operating in the NAS. The head of the Technical Operations service organization, or designee, will provide an annual determination identifying equipment and facilities subject to this subsection.

•(f) When the total estimated value is over \$150,000, the CO must issue a pre-award public announcement (excluding emergencies) summarizing the basis for the single source decision.

•(g) Additional information regarding single source awards can be found in

~~h.f.~~ *Acceptance.*

•(1) A quotation resulting from a RFQ is not an offer, and cannot be accepted by FAA to form a binding contract. A contract is formed when the supplier accepts the offer, which can be done by:

•(a) The supplier accepting the purchase order in writing to FAA. The Contracting Officer should require written acceptance of a purchase order when it is desired to consummate a binding contract before the contractor undertakes performance; or

•(b) The supplier furnishing the supplies or services ordered or by proceeding with the work to the point where substantial performance has occurred.

~~i.g.~~ *Modification.* Each purchase order modification should identify the order it modifies, contain an appropriate modification number, and identify what authority is being used to modify the order. The Contracting Officer determines when it is necessary to obtain a contractor's written acceptance of a purchase order modification. Purchase orders may be modified by using:

•(1) Standard Form 30, Amendment of Solicitation/Modification of Contract;

•(2) An agency-designed form or an automated format; or

•(3) A purchase order form.

~~j.h.~~ *Termination.* A purchase order may be terminated, and the process to terminate an order depends on whether the order has been accepted.

•(1) If the purchase order has been accepted in writing by the contractor, the termination should be processed in accordance with AMS termination clauses.

•(2) If the purchase order has not been accepted in writing by the contractor, the CO should notify the contractor in writing that the purchase order has been canceled and request the contractor's acceptance of the cancellation. If the contractor:

~~d.(i)~~ Accepts the cancellation and does not claim that costs were incurred, no further action is required.

~~e.(ii)~~ Does not accept the cancellation or claims that costs were incurred, the CO should process the termination in accordance with the termination

clauses.

~~f.(1)~~ Any purchase order with an anticipated value of \$10,000 or more must include a Purchase Order/GSA/FSS Order File Checklist (see Procurement Forms) in the official file.

~~g.~~(2) The CO may choose to use the Simplified Purchase Summary (see Procurement Forms) to document actions associated with the award of a purchase order.

f.3 Blanket Purchase Agreement (BPA) Revised 10/2020

~~e.~~a. A blanket purchase agreement (BPA) is a simplified method of filling anticipated repetitive needs for products or services by establishing "charge accounts" with qualified vendors. BPAs may be appropriate when other procurement vehicles such as using a purchase card, purchase order, or contract are not appropriate or available, and:

- (1) A wide variety of items in a class of supplies or services are required, but the exact items, quantity, and delivery requirements are not known in advance and vary;
- (2) FAA offices in given areas do not have or need purchasing authority, but need a commercial source for supplies or services;
- (3) Establishing a BPA would avoid writing numerous purchase orders;
- (4) There is no existing source for the same supply or service that FAA must use; these sources include:

•~~a.~~(a) Federal Prison Industries, Inc. (UNICOR);

•~~b.~~(b) Randolph-Sheppard Act or Javits-Wagner-O'Day Act (JWOD) programs;

•~~c.~~(c) Strategic Sourcing for the Acquisition of Various Equipment and Supplies (SAVES) program;

•~~d.~~(d) National Wireless program; and

•~~e.~~(e) Active contracts containing the "Requirements" clause.

~~f.~~b. A BPA is not a contract. Instead, it is an understanding between FAA and a vendor that allows FAA to place future orders more quickly by identifying terms and conditions applying to those orders, a description of the supplies or services to be provided, and methods for issuing and pricing each order. The FAA is not obligated to place, nor must a vendor accept, any orders. Either party may cancel a BPA at any time. An enforceable contract exists only when FAA places an order against the BPA and it is accepted by the vendor.

~~g.~~c. *Establishing a BPA.*

(1) After determining a BPA would be advantageous, the Contracting Officer (CO) may concurrently establish BPAs for the same type of items or services with more than one vendor to provide maximum competition for orders.

(2) There is no maximum dollar limitation for a BPA; however, each BPA must have a total ceiling amount. If the anticipated total value of all orders against a BPA will exceed \$150,000, then it is subject to public announcement and applicable review requirements, including review by legal counsel for orders exceeding \$100,000 (as well

as review by the Chief Financial Officer (CFO) (see AMS Procurement Guidance T3.2.1.4 for applicable standards) and Chief Information Officer (CIO) (See AMS Guidance T3.2.1.A.3) if information technology resources over \$250,000 are involved)).

- (3) Only a CO can place an individual order exceeding \$100,000.
- (4) Using a BPA does not relieve the CO or authorized users from keeping obligations and expenditures within available funds.
- (5) Price reasonableness and competition requirements apply to obtaining needs through BPAs. A BPA with one vendor does not justify purchasing from only one source; the initial BPA and future orders awarded under the BPA are subject to competition requirements. (Refer to AMS Procurement Guidance T3.2.2.4, Single Source).
- (6) BPAs may include Federal Supply Schedule (FSS) contractors utilizing the BPA provision in their FSS contract.
- (7) BPAs can be prepared without a Procurement Request (PR), but only after contacting vendors to arrange for maximum discounts, documentation requirements for individual purchases, periodic billings, and other necessary details.
- (8) Open market purchases are not affected by an existing BPA. The same class of supplies or services offered through a BPA may be purchased on the open market, and both BPA and non-BPA vendors may be solicited.

h.d. *Mandatory Terms and Conditions.* A BPA must include:

- (1) *Description of Agreement.* A statement that the vendor will furnish products or services, described in general terms, if and when requested by the CO, or the authorized representative, during a specified period and within a stipulated aggregate amount.
- (2) *Extent of Obligation.* A statement that the FAA is obligated only to the extent of authorized orders actually placed under the BPA.
- (3) *Purchase Limitation.* A statement specifying the dollar limitation for individual orders under the BPA.
- (4) *Notice of Individuals Authorized to Purchase under the BPA.* The CO will furnish to the vendor a list of individuals authorized to purchase under the BPA, identified either by title of position or by name of individual, organizational component, and the dollar limitation per purchase for each position title or individual.
- (5) *Clauses.* The BPA must include any prescribed clauses applicable to the dollar thresholds of particular orders against the BPA, e.g., Service Contract Labor Standards for orders for services over \$10,000.

(6) *Delivery Tickets*. A requirement that all shipments under the BPA, except subscriptions and other charges for newspapers, magazines, or other periodicals, will be accompanied by delivery tickets or sales slips with the following information as a minimum: name of individual who placed the order, name of contractor, BPA number, date of purchase, purchase number, itemized list of products or services furnished, quantity, unit price and extension of each item, and date of delivery or shipment.

(7) *Invoices*. Invoices are to be submitted at least monthly or upon expiration of the BPA for all deliveries made during the billing period. Each invoice must:

- (a) Identify the delivery tickets covered in the invoice;
- (b) State the total dollar value of each delivery ticket; and
- (c) Be supported by receipt copies of each delivery ticket.

i.e. *Procurement Request (PR)*. A PR is not required for each order. Instead, the BPA can be bulk funded to the ceiling on the first order, and then each subsequent order applied to the BPA until funds are no longer available. Rather than obtaining a PR for each order, bulk funding is a process where the CO receives authorization through a PR to obligate funds against a specified lump sum of funds reserved for a specific purpose for a specified period of time. The amount of bulk funding should represent the anticipated need through the BPA, and not serve as means to avoid fiscal restrictions or appropriation law. The CO, or authorized BPA user, may make purchases based on an oral request or a memorandum from an authorized requisitioner in the program/requisitioning office. The program/requisitioning office should confirm oral requests in writing as a matter of record.

j.f. *Authorized Users*. Each person authorized to place orders against a BPA should receive written guidance from the CO on the limitations of authority and responsibilities associated with using the BPA. Authorized users must follow ordering procedures to ensure proper delivery, billing, and payment. Purchases that would normally be made as single order should not be split to avoid any user ordering limitations. Program/requisitioning offices should notify the CO whenever an authorized user changes or the need for purchasing against the BPA no longer exists; the CO should modify the BPA to reflect any changes in authorized users.

k.g. *Placing an Order*.

(1) When placing an order, the authorized user contacts the vendor and provides:

- (a) Authorized user's name, phone number, and office.
- (b) BPA number and order number assigned by the authorized user.
- (c) Description of required supply or service (part number, description, quantity, etc.).
- (d) Delivery address and telephone number.

•(e) Delivery date.

•(f) Reminder that the order is tax exempt.

(2) The authorized user should request any offered discounts, and inform the vendor that the BPA number and order number is to appear on the packing slip and invoice/billing statement.

(3) The authorized user should document the order in a log or by other means to record details of the transaction (item description, price, quantity, date, etc.).

~~h~~.h. *Segregation of Duties*. In accordance with Office of Management and Budget (OMB) Circular A-123, the same person may not make the purchase, receive supplies or services, and authorize payment. The same person may perform two of the functions, but not all three.

~~m~~.i. *Review*. The CO should review a sufficient random sample of BPA files at least annually to ensure that authorized users are following procedures.

~~n~~.j. *Unauthorized Commitments*. Only COs or people authorized by the CO may place orders against a BPA. Any purchase made by an unauthorized person, or any purchase placed against a BPA which exceeds the authorized limitation is an unauthorized commitment.

~~o~~.k. *Market Analysis*. The CO must maintain awareness in market conditions, sources of supply, and other factors that may warrant making new arrangements with different vendors or modifying existing arrangements.

~~p~~.l. *Expiration*. A BPA is considered complete when purchases under it equal its total dollar limitation or when the stated time period expires.

~~g~~.4 **Prohibited and Restricted Purchases** Revised 9/2020

~~h~~.a. This guidance is intended to assist FAA personnel in determining whether a particular item or service would be a permissible purchase using appropriated funds. There is no ironclad rule or readily available list that describes in every case whether a particular purchase using appropriated funding is permissible. FAA personnel should use common sense and sound judgment, based on appropriations law and related decisions of the Comptroller General.

~~i~~.b. The Government Accountability Office (GAO) established a "necessary expense" doctrine. This doctrine is described fully in Volume I, Third Edition, of "Principles of Federal Appropriations Law," (GAO Red Book) issued by GAO, Office of the General Counsel. This publication states, in part, that for an expenditure to be justified under the necessary expense theory, it must meet certain tests, including: "The expenditure must bear a logical relationship to the appropriation sought to be charged. In other words, it must make a direct contribution to carrying out either a specific appropriation or an authorized agency function for which more general appropriations are available". By projection, the necessary expense doctrine does not allow use of appropriated funds to purchase items or services that can be reasonably interpreted to meet personal convenience and are not for a necessary Governmental function." (GAO Red

Book, Volume I, Chapter 4, Section B.1.). The CO or purchase cardholder, consulting with budget officials and legal counsel, should make determinations with respect to the “necessary expense” doctrine about questioned or questionable items or services. Almost any listing of prohibited items of purchase is subject to exceptions. To quote the GAO Red Book “The Comptroller General has never established a precise formula for determining the application of the necessary expense rule. In view of the vast differences among agencies, any formula would almost certainly be unworkable. Rather, the determination must be made essentially on a case-by-case basis.”

~~f.c.~~ *Prohibited and Restricted Items.* For FAA, the following are prohibited or restricted items of purchase (this is not a complete list):

(1) **Drinking water**, except when:

- (a) A duly constituted public health authority pronounces ordinary drinking water to be unsafe for human consumption at the site;
- (b) A viable and safe water source for FAA personnel is not available on or within a reasonable distance of the worksite;
- (c) FAA personnel reasonably foresee a disaster or emergency, such as imminent landfall of a hurricane, and all of the following conditions are present:
 - (i) FAA personnel reasonably anticipate that drinking water at the site will be unsafe for human consumption;
 - (ii) The drinking water is for FAA personnel responding to or at the emergency or disaster site;
 - (iii) The amount of drinking water is commensurate with the anticipated response time at the site or the estimated time for the local drinking water to be considered safe for human consumption, whichever is shorter; and
 - (iv) The drinking water is purchased in a reasonable time-frame in advance of an imminent emergency or disaster, and the time-frame does not exceed the time required to purchase, stage, and properly distribute the drinking water; or
- (d) The drinking water is provided in a controlled environment as may be necessary to enable collections for drug use analysis for safety sensitive positions.

(2) **Food or beverage**, except as described in AMS Procurement Guidance T3.2.2.5A.5, FAA Sponsored Conferences, Seminars, Ceremonies, and Workshops.

(3) **Gifts, gift certificates, and prepaid gift cards.**

(4) **Membership fees** for individual employees. The FAA may purchase membership in a society or association in its own name.

(5) **Subscriptions** to print or online publications or magazines not related to official duties.

(6) **Clothing** or personal apparel of any description, except:

(a) Special type clothing required by FAA. The requestor's supervisor must prepare a written justification for special type clothing and coordinate the justification with legal counsel.

(i) Clothing (such as a shirt with FAA logo) for recruitment activities such as job fairs and professional liaison activities with recruitment sources (e.g., schools, colleges and universities, professional associations/organizations, or intergovernmental agency sources) may be authorized if it supports FAA business objectives and there is a bona fide need.

(ii) Clothing for air shows may be authorized if there is a bona fide need for FAA employees to be clearly identifiable.

(b) Clothing and equipment classified as personal protective equipment (PPE). The requestor's supervisor must prepare a written justification for PPE, but does not need coordination with legal counsel when the value of the procurement is below

\$100,000. All PPE must:

(i) Have proper controls established to ensure that PPE is appropriate and accounted for; and

(ii) Be maintained and used according to standards established by the Occupational Safety and Health Administration (OSHA). See the OSHA website for more information.

(c) All clothing or PPE purchased by FAA remains the property of the Government and not the employee.

(7) **Rental of aircraft** by anyone not in an aircraft-related position.

(8) **Fans, air conditioning and cooling equipment, space heaters and heating equipment**, except as properly installed for general use in connection with the maintenance and operations requirements for the site.

(9) **Water coolers, vacuum cleaners, and other household appliances** (i.e. refrigerators, microwaves, etc.), except as requisitioned for general use by, or authorized in writing for purchase by, the authorities responsible for building maintenance and equipment.

(10) **Cellular or communication devices and services** covered by the National Wireless Program Office (NWPO). Devices provided through the NWPO include cellular phones, one and two-way pager devices, multi-functional server-based devices (e.g. Blackberries), and satellite phones.

(11) **Personalized stationery**, including paper pads, with the name, position, title, logo, or office of FAA personnel, except when:

(a) There is a clear business need approved by the head of the line of business or staff office; and

(b) The requestor notifies Office of Financial Analysis (AFA-1) of the planned purchase in advance.

(12) **Tote bags.**

(13) **Coffee mugs.**

(14) **Water bottles.**

(15) **Leather and other natural hide portfolios, binders, or planners.**

(16) **Give-away items**, including portfolio covers, flash drives, pens, and pencils, for internal or external marketing of products, services, or programs by FAA, with the following exception and conditions:

(a) Purchase of promotional items for recruitment activities, such as for job fairs and professional liaison activities with recruitment sources (e.g., schools, colleges and universities, professional associations/organizations, or intergovernmental agency sources), may be authorized when these items support FAA business objectives and there is a bona fide need. Where there is a bona fide need, the selection of items must meet all of the following criteria:

~~e.~~(1) Has a practical use appropriate for the audience, and are business related items, such as pens, rulers, calculators, post-it notes, business card holders, lanyards or note pads;

~~d.~~(2) The items cannot be a personal use item, such as coffee cups, water bottles, umbrellas, candy or food items, or fans;

~~e.~~(3) Is economically priced and reasonably portable; and

~~f.~~(4) Avoids the perception that taxpayer dollars have been frivolously spent.

(b) Recruitment items must comply with FAA branding order 1700.6C and display the FAA jobs website (<http://www.faa.gov/jobs>).

(17) **Coins**, including but not limited to Challenge and Commemorative coins are strictly prohibited.

(18) **iPAD** and similar equipment and related services, with the following exceptions and conditions:

(a) All purchases of iPAD or similar equipment and related services must be coordinated with the Chief Information Officer's (CIO) Enterprise Program Management Service (EPMS).

(b) iPAD and similar equipment and related services for approved purchases may be procured using the FAA purchase card if the costs do not exceed established single and monthly purchase limits.

(c) LOB/SO CIOs are responsible for determining the level of acceptable security risk. As such, each LOB/SO must review the default device settings and modify accordingly to ensure the appropriate level of information assurance.

(d) Each LOB/SO must maintain an inventory of all iPAD or similar equipment.

(19) **Purchases for Non-Monetary Awards**, except:

(a) The FAA may purchase plaques, trophies, pins, flags, retirement plaques and certificates, or similar symbolic items for non-monetary awards to officially recognize employees. Items purchased for a non-monetary award must not exceed \$250 per award' including but not limited to engraving, shipping and handling. FAA Corporate Awards and Recognition program are not subject to the \$250 per award limit, but should be reasonably priced and symbolic items. All official awards must comply with HRPM, Performance Management PM-9.2, Recognizing Employees. Requisitioning offices must maintain appropriate documentation for purchases related to non-monetary awards.

(b) To enhance an official awards ceremony, reasonable and nominally priced purchases, such as for decorations and related supplies, are permissible. An official awards ceremony is defined as publicized event that is anticipated to have an audience and the presentation of an award(s) recognizing FAA Federal employee(s). Awards presented at official awards ceremonies comply with HRPM, Performance Management PM-9.2.

(c) Awards Programs are a structured process for organizations to recognize employees. All awards must be based on an act, service, accomplishment, contribution or performance that supports the LOB/SO Business Plan and/or FAA strategic priorities. Written justification is required for all awards given. The written justification varies in detail depending on the type and value of the award and must be attached to the purchase card request or Procurement Request in PRISM. For example, the written justification for informal, non-monetary awards must include: Name of the employee (or employees if it is a group

award), Date, Reason for award, Type, and Cost of award. Additional information on awards ceremonies and non-monetary awards can be found in the Award Ceremonies and Non-Monetary Awards SOP. Directions for accessing the Awards Ceremonies and Non-Monetary Awards SOP on the Standard Operating Procedures webpage of the Financial Services (ABA) website are as follows:

- ~~g~~1. Go to <https://my.faa.gov/>
- ~~h~~2. Click on the “Organizations” Tab
- ~~i~~3. Click on “Financial Services” under “Finance and Management (AFN)”
- ~~j~~4. Click on “Standard Operating Procedures”
- ~~k~~5. Click on “Award Ceremonies and Non-Monetary Awards”

(20) **Business Cards**, except:

(a) The FAA may use appropriated funds to purchase business cards for employees if necessary to conduct business and approved in advance. Associate/Assistant Administrators, ATO Vice Presidents, and Regional Administrators/Center Directors determine who in their organization is authorized business cards paid for with appropriated funds to conduct FAA business. Authority for this determination may be delegated to a lower level.

(b) Business cards purchased with appropriated funds are Government property. Employees should exercise good judgment and caution when using their cards in situations not directly related to conducting FAA business.

(c) All FAA business cards must comply with branding logo and template requirements in FAA Order 1700.6C. See the FAA website for more information (FAA only)

(d) Purchasers must use one of two printing sources when using appropriated funds to purchase business cards:

~~e~~(1) FAA Aeronautical Center's Media Solutions Group; or

~~d~~(2) Lighthouse for the Blind, Inc., Seattle, WA (pursuant to the mandatory source requirements of the Javits-Wagner-O'Day Act). See the Lighthouse for the Blind's website for ordering information.

(21) **Purchasing or Renting Portable Storage Units or Procuring Short-term Storage Services**, with the following exceptions and conditions:

(a) Before purchasing or renting storage units or procuring storage services, a determination must be made by the Contracting Officer (CO) that existing storage space is not available from other sources within FAA or elsewhere in Government. COs or purchase cardholders must coordinate storage requirements with a Real Estate CO. This coordination is intended to ensure that no in-house storage capabilities are available, and no real estate or facility factors exist that may affect the procurement, such as applicable real estate

regulations or unique site requirements.

(b) Storage units or services for purposes of this guidance are limited to portable storage units or containers designed for temporary (less than six months) on-site use or temporary storage in a secured centralized storage center owned by the vendor. The storage units or containers must be classified as personal property and not affixed or attached by a permanent means to the land (real property) upon which they may be situated for temporary use. If the portable storage unit or container is to be placed on land owned or leased by FAA, the CO or cardholder must ensure FAA has legally established rights to use the land before staging or storing a third party item of property (storage unit or container) procured under a service agreement.

(c) When possible, storage requirements for a construction project should be incorporated into the statement of work or specification under the associated construction contract.

(d) Purchase cards cannot be used:

~~f)(1)~~ For purchase, rental, or lease of land or buildings;

~~g)(2)~~ To purchase real property, which is defined as land, buildings, structures or rights over or under the land, or things that are permanently affixed or attached to the land such as improvements to make it more productive or to make it serve a more beneficial end than the land itself; and

~~h)(3)~~ For long-term storage unit rental or services (long-term is defined as six months or more), unless the purchase card is being used as a payment vehicle against a contract or lease signed by a CO or real estate CO and:

~~a.(i)~~ The total cost of rental or purchase of storage services does not exceed the cardholder's delegated authority;

~~b.(ii)~~ The portable units are not classified as real property (as defined above); and

~~c.(iii)~~ The terms and conditions of the rental or storage services (i.e. termination authority) are set forth in writing and signed by both parties.

(22) Purchasing Printers and Other Printing Devices:

(a) Purchases of desktop and/or stand-alone imaging devices and related consumables require approved waivers in accordance with FAA Order 1720.37A.

(23) **Certain Telecommunications and Video Surveillance Services or Equipment** are

prohibited, as provided in T3.6.4 A 16.

h.5 FAA Sponsored Conferences, Seminars, Ceremonies, and Workshops Revised 9/2020

▪**a.** FAA-sponsored conferences, seminars, ceremonies, and workshops are a routine element of FAA operations. FAA personnel must consider certain special requirements when planning and conducting such events. All such conferences must comply with the standard operating procedures (SOPs) specified by the Office of Financial Analysis. For current forms and guidance, please see the Financial Standard Operating Procedure "Planning Meetings, Conferences, Workshops, Training Events and Award Ceremonies in the FAA" at the Financial Services website

[https://employees.faa.gov/org/staffoffices/afn/finance/sop/?selected=Planning Meetings, Conferences, Workshops, Training Events, and Award Ceremonies in the FAA](https://employees.faa.gov/org/staffoffices/afn/finance/sop/?selected=Planning%20Meetings,%20Conferences,%20Workshops,%20Training%20Events,%20and%20Award%20Ceremonies%20in%20the%20FAA)

▪**b.** *Securing Conference Space.* The Real Estate Contracting Officers have the authority to secure conference space. Generally, such space can be contracted for utilizing a standard purchase order or on a purchase card. If the conference space provider produces their own conference form, it must be reviewed for unacceptable terms/language and when acceptable, signed by a Real Estate Contracting Officer.

▪**c.** *Legal Review.* Legal counsel must first review any agreement in excess of \$100,000 (total Government expenditures including room charges for the attendees) between FAA and a conference space provider. Except as provided below, agreements below \$100,000 do not require legal review, but review may be sought at the discretion of the real estate CO or the real estate CO's designate.

▪**(1)** Changes to the following AMS clauses require legal review regardless of the dollar value:

▪**(a)** 3.9.1-1 Contract Disputes; and

▪**(b)** 3.10.6-1 Termination for Convenience of the Government (Fixed Price).

▪**(2)** Incorporation of the following clauses requires legal review regardless of the dollar value:

▪**(a)** Clauses making any law (including state law) other than Federal law controlling;

▪**(b)** Clauses that establish liability beyond what is funded or contingent liability beyond the limits imposed allowed the Federal Tort Claims Act; and

▪**(c)** Clauses requiring binding arbitration.

▪**d.** *Travel-related Costs.* Employee's travel, hotel, local transportation, and per diem must be paid with the FAA travel card. An employee's travel-related costs cannot be paid for under a contract, purchase order, or FAA purchase card.

▪e. *Items for Distribution to Conference Attendees.* Generally, personal use items, such as mugs, clothing, or bags, cannot be purchased and given to conference attendees. Conference planners must consult with legal counsel before purchasing any items to be distributed to conference or event attendees.

▪f. *Food and Beverage.*

▪(1) The FAA may purchase food and beverage for conference participants under the following narrowly defined circumstances:

▪(a) *Formal Conferences.*

- (i) The term "formal conference" usually denotes topical matters of interest to and participation of multiple agencies and/or non-Governmental participants. Other indicators are registration, published substantive agenda, scheduled speakers and discussion panels.
- (ii) The meals, beverages, and refreshments must be incidental to the conference.
- (iii) The employees are not free to take meals elsewhere without being absent from the essential business of the meeting.
- (iv) The meals, beverages, and refreshments must be part of a formal conference that includes both substantial functions at the time the meals, beverages and refreshments are served and substantial functions separate from when food, beverages, or refreshments are served.
- (v) At formal conferences where the above criteria are met, FAA may also pay for the food, beverages, and refreshments of private citizens or Federal employees from other agencies when an administrative determination is made that their attendance is necessary to achieve the program or conference objectives.

▪(b) *Internal FAA Training Conferences.* The meals, beverages, and refreshments must be:

- (i) Incidental to the conference;
- (ii) Attendance at the meals must be necessary for full participation in the conference; and
- (iii) The employees are not free to take meals elsewhere without being absent from the essential business of the meeting.

▪(c) *Award Ceremonies.* The FAA may purchase light refreshments for award ceremonies. If not awarded through a contract or purchase order, the FAA purchase card must be used to purchase light refreshments.

▪(d) *Cultural Awareness Ceremonies.* The FAA may purchase food or beverage if part of a formal program intended to both advance Equal Employment Opportunity objectives and provide cultural or ethnic awareness. Food and beverage must be part of a culture's food and beverage and offered as part of a larger program that serves an educational function.

▪(e) *Official Receptions.* For official receptions hosted by the Administrator (or designated senior executive) for foreign or non- Federal dignitaries, FAA may purchase light refreshments, meals, snacks, and beverages. The Administrator's official reception and representation funds must be used for these events (see FAA Order 1200.3E). The FAA purchase card may be used to purchase food or beverage for these events.

▪(2) Except for FAA award ceremonies and the Administrator's official receptions, FAA purchase card cannot be used as a procurement vehicle for food and beverage; a purchase order or contract must be used instead. However, the purchase card may be used to make payment against a duly executed contract signed by a warranted real estate CO.

▪(3) Food and beverage costs must be reasonable, must not include alcoholic drinks, and cannot be purchased for amusement or social events, such as networking sessions, team-building exercises, or hospitality suites (except hospitality functions at the Administrator's official receptions).

▪(4) The FAA cannot purchase food and beverage for routine meetings to discuss day- to-day issues. Examples of routine meetings include those to discuss day-to-day operations, to develop business plans to accompany FAA goals, or to develop performance targets.

▪(5) The FAA may pay a facility rental fee that includes the cost of food or beverages provided to FAA employees where the fee is all-inclusive, not negotiable and competitively priced to those that do not include food.

▪(6) Foods that constitute "light refreshments" are snacks, such as cookies, and beverages. Light refreshments for morning, afternoon or evening breaks are defined to include: coffee, tea, milk, juice, soft drinks, water, donuts, bagels, fruit, pretzels, cookies, chips, muffins or related items of similar value. This is distinguished from a meal such as breakfast, lunch or dinner, or multiple heavy hors d'oeuvres. Meals are not "light refreshments."

▪g. *Justification for Food and Beverage.* The FAA's policy is to not use, nor create the appearance of use of, Government funds to entertain Federal employees. Before contracting for a conference or event with food and beverage, the Director (or equivalent management level) of the organization sponsoring the event and legal counsel must approve a written justification explaining why food and beverage is necessary. The justification must describe:

▪(1) Nature and purpose of the event;

- (2) Applicability of the event to FAA’s programs or activities;
- (3) Any statutory, regulatory, or other authority for the event;
- (4) Participants;
- (5) Dates;
- (6) Facility and location;
- (7) Estimated cost;
- (8) Reason why food and beverage is necessary;
- (9) Meal(s) that will need to be offset in attendees’ travel vouchers; and
- (10) Keynote functions which include meals. The description of the function is to include any keynote speakers, the type of presentation(s) being given and how they are integral to the conference.

▪h. *Travel Vouchers and Per Diem.* Conference attendees must offset in their travel vouchers the cost of meals paid for and provided by the Government. Light refreshments do not need to be offset in travel vouchers. See FAA Travel Policy for rules when meals are furnished by the Government.

▪i. *Registration Fees.* Registration fees are payments collected by FAA, or a support contractor on behalf of FAA, from private and other public participants attending an FAA-sponsored conference. If FAA wishes to charge a registration fee, it must have statutory authority to do so. Under 31 U.S.C. 3302(b), FAA must deposit registration fees in the U.S. Treasury, unless there is specific statutory authority for FAA to keep and use fees collected. Under 49 U.S.C. 45303, the FAA currently has statutory authority to credit back to its operations account authorized collections; therefore conference planners should check with legal counsel before depositing authorized registration fees into the General Fund of the United States Treasury Department. FAA may authorize a contractor providing conference services to charge a registration fee to conference participants. In cases where the FAA co-sponsors a conference and the co-sponsor incurs costs of the conference without FAA reimbursement, the co-sponsor is also permitted to collect registration fees. The registration fee amount is subject to the real estate Contracting Officer approval consistent with the contract terms and conditions and may include a reasonable profit for the contractor’s efforts.

B Clauses

[view contract clauses](#)

C Forms

| [view procurement forms](#)

Section Revised: T3.6.1 – Small Business Program

Procurement Guidance - (~~10/2021~~)

T3.6.1 - Small Business Program Revised 7/2020

~~T3.6.1 – Small Business Program~~ Revised 7/2020

~~A Small Business Program~~ Revised 7/2020

~~1 Procurement Team Responsibilities in Support of the Small Business Program~~

Revised 7/2020

~~2 The FAA Small Business Program and Liaison Representative Involvement~~

Revised 7/2020

~~Prime Contracting with Small Business~~ 1 Procurement Team Responsibilities in Support of the Small Business

Program Revised 7/2020 1/2021

~~2 The FAA Small Business Program and Liaison~~

Representative Involvement Revised 7/2020 1/2021

~~a: 3 Prime Contracting with Small Business~~ Revised 7/2020 1/2021

~~b: Subcontracting with Small Business~~ 4 Subcontracting with Small Business

Revised 7/2020 1/2021

~~3 Bonding Assistance and the DOT Lending Program~~ Revised 1/2018

~~e: Size Standard Verification~~ 5 Size Standard Verification Revised 7/2019 1/2021

~~4 Contract Bundling~~ 6 Contract Bundling Revised 7/2020

~~d: Mentor-Protégé~~ 7/2020 1/2021

~~Joint Ventures~~ 7 Mentor-Protégé Revised 7/2020 1/2021

~~e: 8 Joint Ventures~~ Revised 10/2018 1/2021

~~f: Tiered Evaluations~~ 9 Tiered Evaluations Revised 7/2016 1/2021

~~B Clauses~~ B Clauses Revised 10/2006

~~C Forms~~

T3.6.1 - Small Business Program Revised 7/20204/2009

A Small Business Program Revised 7/20202005

a. 1 Procurement Team Responsibilities in Support of the Small Business Program Revised 7/20201/2021

- (1) **a.** Effective implementation of the FAA's small business ~~program~~programs in their contracting actions, including achieving program goals;
- b.** Develop small businesses by taking all reasonable action to increase small business participation in the FAA's procurements (including subcontracts);
- (3) **c.** Consider the feasibility of breaking out requirements to increase opportunities for small businesses to successfully compete for prime contracts;
- (4) **d.** Consider the extent of small business participation in contract performance during procurement planning;
- (5) **e.** Obtain guidance from the FAA Small Business Program (AAP-20) ~~office~~-liaison as it relates to small business ~~development~~ issues. In doing so, the service teams must coordinate with representatives of the cognizant local AAP-20 staff as soon as requirements estimated to exceed \$~~150250~~,000 are defined to receive assistance in identifying opportunities for small businesses. This requirement to coordinate does not apply to contract modifications or requirements having an anticipated dollar value exceeding \$10,000 but not over \$~~150250~~,000 that are set-aside for Socially and Economically Disadvantaged Business (SEDB) 8(a)-and/or-, Service-Disabled Veteran-Owned Small Business (SDVOSB), Historically Underutilized Business Zone (HUBZone) small businesses, and/or Women-Owned Small Business (WOSB) firms or a small business if no SEDB 8(a)-or-, SDVOSB, HUBZone small businesses, and/or WOSB firms that are competitive in terms of market prices, quality, and delivery can be identified. Use the Small Business Set-Aside Determination and Coordination Form to coordinate with AAP-20 and attach (as applicable) the statement of work, single source rational basis documentation, fully executed single source justification, market survey and market analysis to the form (see also AMS Policy on ~~SDBSEDB~~ 8(a) Set-Asides for use of this form). In addition, any requirements that had previously been procured through the Small Business/~~SDBSEDB~~/8(a) Program, but not currently proposed for reprocurement through the Small Business/~~SDBSEDB~~/8(a) program must be approved by the cognizant local AAP-20 staff. If agreement cannot be reached, the FAA Acquisition Executive's approval is required prior to any public notice or solicitation of the requirement; and
- (6) **f.** Participate and assist in the development of small business conferences and outreach efforts sponsored by AAP-20.

2 The FAA Small Business Program (AAP-20) and Liaison Representative Involvement Revised 7/20201/2021

The Small Business Program (AAP-20)-~~office~~ maintains a direct working relationship with the procurement teams. When appropriate, AAP-20 interacts with all procurement teams in the following areas to provide support and ensure effective and consistent program implementation:

- ~~1.~~ a. Participates in procurement workshops to increase access to and award of FAA contracts by small businesses;
- ~~2.~~ b. Participates in acquisition and procurement planning meetings and other scheduled meetings with the procurement team as advisors;
- ~~3.~~ c. Identifies potential small businesses that qualify for a particular procurement;
- ~~4.~~ d. Provides the procurement team with source lists of small businesses;
- ~~5.~~ e. Ensures that the source selection criteria used to select firms for award is fair, consistent and does not limit opportunities for small businesses;
- ~~6.~~ f. Provides advertising recommendations to the integrated products teams to ensure all requirements are being advertised in media accessible to small businesses;
- ~~7.~~ g. Responds to written and telephone inquiries from small businesses and small businesses owned and controlled by a socially and economically disadvantaged individuals regarding procurement opportunities with FAA;
- ~~8.~~ h. Reviews final source lists to ensure an adequate representation of small businesses;
- ~~i.~~ Reviews questions presented at conferences, preparing answers to questions submitted by
~~9.~~ small businesses, interacting with the integrated product teams for distribution of responses to all potential contractors;
- ~~10.~~ j. Reviews annual representations and certifications and accompanying documentation using official records found on the System for Award Management (SAM) and VetBiz;
- ~~11.~~ k. Small Business Administration's Small Business websites will be utilized to support market Research;
- ~~12.~~ l. Reviews subcontracting plans;
- ~~13.~~ m. Ensures that small businesses and small businesses owned and controlled by socially and economically disadvantaged individuals are entered into the AAP-20 database;
- ~~14.~~ n. Assists in the proposal evaluation process as a non-voting member of the evaluation team;
- ~~15.~~ o. Conducts on-site pre-award verifications to verify that a sufficient percentage of the ownership, as well as the business control and management of the firm is vested in a disadvantaged group member(s), service-disabled veteran(s) or woman (women) and verify compliance with small business program requirements;
- ~~16.~~ p. Participates in debriefings of unsuccessful small businesses to ensure fair and equitable treatment to all firms;

~~17.~~ q. Participates in postaward meetings with successful offerors to ensure a clear understanding of small business program guidelines and engagement of small businesses as subcontractors; and

~~18.~~ r. Conducts on-site compliance reviews of contractors with subcontracting plans to ensure compliance with program requirements.

b. 3 Prime Contracting with Small Business Revised 7/20201/2021

~~(1)~~ a. While the use of small business set-asides as a method of procurement is not mandatory, small businesses must be afforded reasonable opportunities to compete for all procurements. All procurements must first be considered for set-aside before procuring the product or service on an unrestricted basis. Thus, procurement teams should take the following actions when appropriate:

- (1) Set-aside procurements competitively in accordance with the policies and guidance contained in Acquisition Management System (AMS) Section 3.2.2 Source Selection;

- (2) Consider the capabilities of small businesses and small businesses owned and controlled by socially and economically disadvantaged individuals during the screening phase of each procurement;

- (3) Breakout large requirements (if severable) into smaller sized requirements to provide for greater small business participation;

- (4) Plan procurements of supplies and services so that more than one small business firm may perform the work (if the work exceeds the amount that a single small business can handle);

- (5) Ensure that delivery schedules are established on a realistic basis to encourage small business participation to the extent consistent with actual requirements of FAA;

- (6) Encourage teaming relationships among small and large businesses to enhance competition; and

- (7) Utilize small businesses on qualified vendor lists on a rotational basis to increase opportunities to the greatest number of small businesses.

~~(2)~~ b. Conducting set-asides with small businesses, small businesses owned and controlled by socially and economically disadvantaged individuals, ~~and (8(a) Certified),~~ service-disabled veteran owned small businesses, Historically Underutilized Business Zone (HUBZone) small businesses, and Women Owned Small Businesses:

- (1) All set-asides are to be conducted directly with small businesses independent of the Small Business Administration (SBA);

- (2) Procurements may be set-aside exclusively for small businesses;

~~(1)-(3)~~ Procurements may also be set-aside exclusively for competitive award among small

socially and economically disadvantaged businesses (~~SDBs~~SEDBs) that are expressly certified by the Small Business Administration (SBA) for participation in the SBA's 8(a) program. Each firm claiming 8(a) status is required to provide a copy of its SBA 8(a) certification letter to the Contracting Officer (CO) as evidence of eligibility. There is no requirement for SBA's approval to make award to the ~~selected small disadvantaged business (SDB)~~SEDB;

~~(2) Procurements may not be exclusively set aside for women-owned businesses;~~

~~(4) Industry should be notified of the applicable North American Industry Classification (NAIC) System (NAICS) code representing the predominant portion of the overall requirement in the public announcement to ensure small business size eligibility requirements are timely known;~~
~~requirements are timely known; and~~

~~(3) The service team will state the date when the firm must be 8(a) certified.~~

• ~~(5) Procurements may be set-aside exclusively for competitive award among service-disabled veteran owned small businesses (SDVOSB) as defined by 38 U.S.C. 101. Each firm claiming SDVOSB status is required to complete the electronic annual representations and certifications via SAM at <https://www.sam.gov>. <https://www.sam.gov> to self-certify its eligibility. The firm must also be verified by the Department of Veterans Affairs and appear in the Vendor Information Pages on the Veteran Affairs website-;~~

• ~~(6) There is no requirement to obtain the SBA's or Veteran Administration's approval to make award to the selected SDVOSB. However, unless the firm is designated as a SDVOSB on the VA website, the CO must not make an award to the firm as a SDVOSB-;~~

~~(7) Procurements may be set-aside exclusively for competitive award among HUBZone small businesses that are expressly certified by the Small Business Administration (SBA) for participation in the HUBZone program. Each firm claiming HUBZone status is required to complete the electronic annual representations and certifications via SAM at <https://www.sam.gov> to self-certify its eligibility. Certification can also be verified on the List of Qualified HUBZone Small Business Concerns at http://dsbs.sba.gov/dsbs/search/dsp_searchhubzone.cfm. There is no requirement for SBA's approval to make award to the selected HUBZone small business;~~

~~(8) Procurements may be set-aside exclusively for competitive award among Women-Owned Small Business (WOSB) that are either certified by the SBA or by a third-party certifier approved by the SBA and are eligible under the WOSB Program. Program participants' WOSB certification must be on the firm's Dynamic Small Business Search (DSBS) profile. WOSB concerns are eligible under the WOSB Program when the acquisition is assigned a North American~~

Industry Classification System (NAICS) code in which SBA has determined that WOSB concerns are underrepresented or substantially underrepresented in Federal procurement. These NAICS are listed by the SBA on their website (see <https://www.sba.gov/document/support--qualifying-naics-women-owned-small-business-federal-contracting-program>). There is no requirement for SBA's approval to make award to the selected WOSB;
and

(9) There is no order of precedence among the SEDB 8(a) Program, HUBZone Program, SDVOSB Procurement Program, or the WOSB Program. Results of market research and progress in the achievement of the agency's socio-economic goals should be considered when determining which program to utilize. However, any requirements that had previously been procured through the Small Business/SEDB/8(a) Program, but not currently proposed for reprocurement through the Small Business/SEDB/8(a) program must be approved by the cognizant local AAP-20 staff.

• (10) Combined Set-Asides Procurements may also be set-aside for competitive award among offerors that qualify ~~with the two categories as both SEDB 8(a) certified and SDVOSB.~~ The requirements of section ~~(b)~~ are applicable to such combined set-asides.

• (11) A procurement may not be set-aside if:

• (a) there is no reasonable expectation of obtaining offers from two or more responsible ~~SDB~~SEDB(8(a)) concerns, small business concerns, ~~or~~ service-disabled veteran owned small business concerns, HUBZone small business concerns, or WOSB concerns that are competitive in terms of market prices, quality and delivery; or

• (b) it is in the best interest of the FAA to contract with a single source or noncompetitively and the rational basis is documented; or

• (c) extension of the current services.

~~b. c.~~ Noncompetitive Awards to ~~SDB~~SEDB (8(a))~~and~~), SDVOSB, HUBZone, and WOSB Firms. ~~A~~ (See AMS Policy Section 3.6.1.3 for applicable thresholds). In addition to meeting eligibility requirements described above, a rational basis for the decision to award a noncompetitive ~~SDB~~SEDB (8(a))~~or~~), SDVOSB, HUBZone, or WOSB procurement should be documented. Procurement decision makers should consider potential ~~SDB~~SEDB (8(a))~~or~~), SDVOSB, HUBZone, or WOSB sources of supply contained in the ~~Source Net~~, Dynamic Small Business Search (DSBS), System for Award Management (SAM), and VA Vendor Information Pages Vetbiz, ~~www.va.gov/osdbu, (market research) websites,~~ website available on the Small

Business Program's (AAP-20) website. The ownership and control of the sources on this website have been verified by Veterans Affairs (VA). The public announcement requirements of the AMS Section 3.2.1.3.11 are not applicable to noncompetitive awards to ~~SDB~~SEDB (8(a)-~~or~~), SDVOSB, HUBZone, or WOSB firms if the product being procured is not available from Federal Prison Industries.

There is no requirement to obtain the SBA's or Veteran Administration's approval to make award to the selected SDVOSB. However, unless the firm is designated as a SDVOSB on the VA website, the CO must not make an award to the firm as a SDVOSB.

~~(3)~~ d. Noncompetitive awards above ~~\$2225~~ million to SEDB 8(a) firms: For such awards, the following additional requirements apply:

- (1) The program official must prepare a written justification at a minimum documenting the rational basis for the award as follows:

- (a) Description of the supplies/services being purchased;

- (b) Determination that a noncompetitive contract is in the best interests of FAA;

- (c) Determination that the anticipated cost of the contract will be fair and reasonable; and

- (d) Applicable AMS references.

- (2) The CO and program official must approve the justification, with concurrence by legal counsel (on the justification) and AAP-20 (on the Small Business Set-Aside Determination and Coordination form) before negotiations on the contractor's proposal.

e. 4 Subcontracting with Small Business Revised 7/2020/2021

~~(4)~~ a. In procurements estimated to exceed ~~\$700~~750,000 (\$1,500,000 for construction), the CO must incorporate subcontracting provisions (including attainable and reasonable subcontracting goals for the participation of small businesses, small businesses owned and controlled by socially and economically disadvantaged individuals, HUBZone small businesses, women-owned small businesses and service disabled veteran owned small businesses). A template Master Subcontracting Plan to satisfy the applicable requirements of AMS clause 3.6.1-4, Small, Small Disadvantaged, Women-Owned-~~and~~, Service-Disabled Veteran-Owned and HUBZone Small Business Subcontracting Plan is located in FAST under Procurement Templates & Samples. Subcontracting provisions are not required for; (1) commercial items; (2) when there are no subcontracting possibilities or (3) when the prime contractor is a small business or a small business owned and controlled by a socially and economically disadvantaged individual. The contract should include requirements for contractors to periodically report data on subcontracting accomplishments in sufficient detail to determine the extent of the contractor's attainment of subcontracting goals.

~~(2)~~ b. The following subcontracting considerations should be used in procurements that have subcontracting provisions as appropriate:

- ~~(i)~~ (1) Establishing goals requires much care to ensure that they are realistic and motivate the contractor. Percentage goals that are unrealistically low will only create a false sense of success and should be avoided. Likewise, goals that are too high can be counterproductive.
- ~~(ii)~~ (2) Subcontracting requirements should be a subject for review and discussion at postaward conferences. It is important to monitor contractor performance in meeting goals. This is particularly important early in the life of the contract when the majority of subcontracts will be awarded. Prompt corrective action should be taken if it appears that a contractor will not meet its goal.
- ~~(iii)~~ (3) The procurement team should notify the Small Business Program (AAP-20) or Small Business Liaison Representative of the opportunity to review the subcontracting proposal in sufficient time to provide the representative a reasonable time to review the material and submit advisory recommendations prior to award. The CO is responsible for ensuring that the contractor attains all subcontracting goals. Subcontracting data (accomplishments) must be timely reported in the Electronic Subcontracting Reporting System (eSRS).
- ~~(iv)~~ (4) The CO should provide a listing of potential small business subcontractors for information purposes. The FAA should not make any warranty as to their capabilities or abilities to perform any portion of the contract. The listing may be obtained from the AAP-20 Small Business Liaison Representative.
- ~~(v)~~ (5) Evaluate the percentage and dollar volume of planned subcontracting and total dollar volume of expected awards to small business subcontractors (including small businesses owned and controlled by socially and economically disadvantaged individuals, HUBZone, women- owned and service-disabled veteran owned concerns).
- ~~(+)(6)~~ (6) There should be separate subcontracting goals for small businesses and small businesses owned and controlled by socially and economically disadvantaged individuals, HUBZone, women-owned and service-disabled veteran owned concerns expressed as a percentage of total planned subcontracting dollars.
- ~~(vi)~~ (7) Identify principal product and service areas to be subcontracted and identify those areas where it is planned to use small business, small businesses owned and controlled by a socially and economically disadvantaged individual, HUBZone, women-owned and service- disabled veteran owned subcontractors.
- ~~(vii)~~ (8) Review via SAM representations and certifications of principal proposed small business and small disadvantaged business subcontractors, including the type of product or service and the dollar value to be awarded to each principal subcontractor. This information is to be used to assist the CO in making a determination as to the acceptability of the proposed subcontracting goals. The contractor is not contractually bound to make awards to the designated subcontractors nor is the Government approving the subcontracts.

~~(2)-(9)~~ Evaluate extent of complexity and variety of work to be performed by small

businesses with greater weight on businesses performing substantive or high technology components or services. In this way, FAA can ensure that small businesses will receive technologically challenging or a meaningful portion of the overall contract.

~~(viii)~~ (10) Include monetary incentives for subcontracting such as including an award fee provision to provide incentives for providing meaningful, technically substantive subcontracting work to small businesses. Under this approach subcontracting proposals that provide appropriate percentage commitments would be accepted, but an award fee contract line item would be incorporated as part of the contract. Receipt of the award fee would be after either preliminary design review, critical design review, or other appropriate milestones. The percentage amount of the award fee pool would be based on the extent the contractor has provided meaningful, technically substantive work to ~~eligible small businesses within the previously accepted percentage goals.~~

eligible small businesses within the previously accepted percentage goals.

~~(ix)~~ (11) Evaluate past performance related to the offeror's compliance with prior subcontracting proposals and subcontracting plans, with greater weight on subcontracting proposals received from offerors that have successfully attained or exceeded subcontracting goals in the past.

~~(x)~~ (12) Evaluate level of participation of small businesses evaluated based on the percentage of the total contract value (if appropriate). This is particularly recommended for requirements traditionally performed by small businesses that may be displaced due to the bundling of smaller set-aside requirements into one larger contract.

~~(xi)~~ (13) Contractors should be required to flow down similar subcontracting requirements under the prime contract to all subcontractors (except small businesses).

~~(xii)~~ (14) If an offeror submits an offer that does not address each of the subcontracting provisions, the CO should advise the offeror of the deficiency and request submission of a revised offer by a specific date; and (15) If the offeror does not submit an offer incorporating the subcontracting requirements within the time allotted, the offeror should be ineligible for award.

~~1. Bonding Assistance and the DOT Lending Program~~ Revised 1/2018

~~Firms seeking bonding assistance may refer to the National association of Surety Bond Procedures (NASBP) website, <https://www.nasbp.org/home>, and/or click here, <http://events.nasbp.org/STAFF/us/About/FindaProducer/us/FindProducers/Find-a-Producer.asp?WebsiteKey=ecff5501-6102-4e5a-91f0-2c438675a280>, to find bond producers in their area.~~

~~d.~~ 5 Size Standards Verification Revised 7/2019/2021

~~a. a.~~ To preserve the integrity and foster the objectives of the small business program, FAA must satisfy itself that the ownership, control, and day-to-day management requirements of the

program are fulfilled. Each business claiming eligibility as a small business ~~or~~, small business owned and controlled by a socially and economically disadvantaged individual (8(a) certified), service-disabled veteran-owned small business, HUBZone small business, or women owned small business must be required to provide evidence of eligibility prior to award. Prospective contractors must complete electronic annual representations and certifications via SAM at ~~https://www.sam.gov~~ https://www.sam.gov and as directed in Guidance subparagraph T3.6.1A3(b). The FAA reserves the right to review and verify each firm's program eligibility. If the firm is not a small business as defined by the North American Industry Classification (NAIC) code size standards, it will not qualify as a small business.

For set-asides restricted to small businesses, small businesses owned and controlled by socially and economically disadvantaged individuals (8(a) certified) ~~and/or~~, service-disabled veteran owned small businesses, HUBZone small businesses, and/or women owned small businesses, verification will be performed using SAM and ~~or~~ VetBiz (as required). The contracting officer will reference the date of verification in the contract file. For agreements, the contractor retains eligible status for the term of the agreement. The contractor must recertify their business size prior to any extensions of the agreement including exercising an option period.

~~a.~~ b. For unrestricted procurements, the successful offeror must complete electronic annual representations and certifications at SAM.

~~b.~~ c. When subcontracting goals are established for small businesses, small businesses owned and controlled by socially and economically disadvantaged individuals, HUBZone small businesses, small businesses owned and controlled by women, and service-disabled veteran owned small businesses, the prime contractor must verify a completed profile via SAM for such small businesses counted toward the successful offeror's subcontracting goals.

~~c.~~ d. A successful small business program rests with FAA's ability to limit participation to bona fide small businesses ~~and~~, small businesses owned and controlled by socially and economically disadvantaged individuals, HUBZone small businesses, small businesses owned and controlled by women, and service-disabled veteran owned small businesses, for they are the intended recipients of the agency's procurement dollars earmarked for small business set-asides.

~~d.~~ e. For the owner of the firm to be found to have controlling interest in the company, the following must exist:

~~(1)~~ (1) The eligible owner holds the position of chairperson of the board, president or chief executive officer;

~~(2)~~ (2) The eligible owner has the right to vote his or her shares or other equity interest to elect the majority of voting members of the board of directors or other governing body;

~~(3)~~ (3) The eligible owner holds at least 51% unconditionally ownership and control of the operation; or

~~(4)~~ (4) The eligible owner has direct full-time responsibility for the day-to-day management of the business, as evidenced by all of the following:

~~(a)~~ (a) Directly related managerial or technical experience and competency;

- ~~(b)~~ (b) Establishment of company policies;
- ~~(c)~~ (c) Determination and selection of business opportunities;
- ~~(d)~~ (d) Supervision and coordination of projects
- ~~(e)~~ (e) Control of major expenditures;
- ~~(f)~~ (f) Hiring and dismissing key personnel;
- ~~(g)~~ (g) Marketing and sales decisions; and
- ~~(h)~~ (h) Signature on major business documents.

e. 6 Contract Bundling Revised 7/2020/2021

4 a. Definitions:

- (1) A bundled contract is a contract that is entered into to meet requirements that are consolidated.
- (2) Bundling is consolidation of two or more requirements for supplies or services, previously provided or performed under separate smaller contracts, into a SIR for a single contract that renders a contract likely to be unsuitable for award to a small business concern (including socially and economically disadvantaged (8(a)), small disadvantaged, service-disabled veteran owned, HUBZone, and women-owned businesses) due to:
 - (a) The diversity, size, or specialized nature of the elements of the performance specified;
 - (b) The aggregate dollar value of the anticipated award;
 - (c) The geographical dispersion of the contract performance sites; or
 - (d) Any combination of the factors described in paragraphs (2) (i), (ii), and (iii) of this definition.
- (3) Measurably Substantial Benefits are the dollar amount of benefits accruing from the bundling of requirements. These benefits can be in many forms to include cost savings, price reduction, quality efficiency, enhance performance, result in better terms and conditions, reduce acquisition cycle times and any other benefits

5 b. This section is not applicable to contracts whose total estimated bundled value (including all options) is less than \$10 Million.

a. c. Bundling of contractual requirements is discouraged unless it is necessary and justified.

Bundling is necessary and justified if there are substantial benefits which are measurable and quantifiable. The service team must document the measurably substantial benefits to the Government. Benefits must be equivalent to 10% if the total anticipated contract value is \$94 million or less; or 5% if the contract value exceeds \$94 million.

6 d. To ensure that prime contract opportunities are provided to small businesses, the following alternatives must be considered prior to bundling:

- (1) Breaking up the procurement into smaller discrete procurements to render them suitable for small business set asides;
- (2) Breaking out discrete components, where practicable, to be set aside for small business; or
- (3) When issuing multiple awards against a single solicitation, reserving one or more awards for small businesses.

7 e. If a service team determines that contract bundling is to be used, the service team must inform the administrator and include written justification in the file (a part of the acquisition strategy plan, separate memo, etc.) outlining the need for bundling and documenting the impact on attaining the FAA socioeconomic goals. Additionally, if bundling would result in any adverse impact to achievement of the agency's socio-economic goals, the SIR for the bundled procurement must be approved by the FAA Acquisition Executive (FAE).

In addition, the service team must notify the local Small Business Program (AAP-20) prior to issuance of the SIR.
~~prior to issuance of the SIR.~~

8 f. In a bundled procurement, the acquisition strategy should provide for maximum practicable participation by small business concerns. Some of the ways this can be accomplished include the following:

- ~~(1)~~ (1) Authorizing two or more small businesses to form a contract team and for that team to be considered a small business for purposes of a bundled requirement provided that each small business partner to the teaming arrangement individually qualifies as a small business under the assigned NAIC codes for the requirement.
- (2) For SIRs that offer a significant opportunity for subcontracting, the CO should include proposed small business, small disadvantaged business and women- owned business subcontracting participation in the subcontracting plan as an evaluation factor.
- (3) Including small business, small disadvantaged business and women- owned subcontracting goals in SIRs and contracts based on contract dollars versus planned subcontracting dollars.
- (4) Consulting the local AAP-20 ~~and Source Netstaff.~~

~~b. g.~~ The requirements of this section do not apply to bundled contracts that are awarded in

accordance with OMB Circular A-76 if a cost comparison has been performed under A-76 procedures.

9 h. The requirements of this section do not apply to contracts to be awarded and performed entirely outside of the United States.

f. **7 Mentor-Protégé** Revised 7/2020/2021

3 a. *Definitions.*

• (1) **SMALL DISADVANTAGED BUSINESSES (SDB)**, as used in the Mentor-Protégé Program, means small business concerns owned and controlled by socially and economically disadvantaged individuals as defined by the Acquisition Management System (AMS).

• (2) **HISTORICALLY BLACK COLLEGES AND UNIVERSITIES (HBCU)** means institutions determined by the U.S. Secretary of Education to meet the requirements of 34 CFR 608.2 and listed therein.

• (3) **MINORITY EDUCATIONAL INSTITUTIONS (MI)** means institutions verified by the U.S. Secretary of Education to meet the criteria set forth in 34 CFR 637.4. MIs include Hispanic-serving institutions as defined by 20 USC 1059c(b)(1).

• (4) **WOMEN-OWNED SMALL BUSINESSES (~~WOWOSB~~)**, as used in the Mentor-Protégé Program, means a small business where ownership and controlling interest (at least 51%) in the company is held by a woman.

• (5) **SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS (~~SDVSB~~SDVOSB)** is a small business concern that is 51% owned and controlled by a service-disabled veteran(s).

• (6) **HIGH-TECH**, as used herein means research and/or development efforts that are within or advances the state-of-the-art in technology discipline and are performed primarily by professional engineering, scientists, and highly skilled and trained technicians or specialists.

• ~~SMALL DISADVANTAGED~~ (7) SOCIALLY AND ECONOMICALLY DISDAVANTAGED **BUSINESS (~~SDB~~ (SEDB))** is a small business concern that is at least 51 percent unconditionally owned by one or more individuals who are both socially and economically disadvantaged, or a publicly owned business that has at least 51 percent of its stock unconditionally owned by one or more socially and economically disadvantaged individuals and that has its management and daily business controlled by one or more such individuals.

• (8) **SMALL BUSINESS (SB)** is a business, including its affiliates, that is independently owned and operated and not dominant in producing the products or performing the services being purchased, and one that qualifies as a small business under the Federal Government's criteria and North American Industry Classification System (NAICS) Code size standards.

4 *b. Purpose.*

(1) The FAA Mentor-Protégé Program is designed to motivate and encourage firms to assist Small Businesses (SB), preferably ~~Small~~Socially and Economically Disadvantaged Businesses (~~SDB~~SEDB), Small Disadvantaged Businesses (SDB), Service-Disabled Veteran-Owned Small Business (~~SDVSB~~SDVOSB), Historically Black Colleges and Universities (HBCU), and Minority Institutions (MI) and Women-Owned Small Businesses (~~WOB~~WOSB), enhancing their capabilities to perform FAA prime contracts and subcontracts, foster long-term business relationships between these entities and Mentor Firms, and increase the overall number of these entities that receive FAA prime contract and subcontract awards. The "Mentor-Protégé Program Guide" may be obtained from the Small Business Program (AAP-20) staff.

5 *c. Incentives for Mentor Participation.*

- (1) Mentors may receive additional evaluation points (for Mentor-Protégé Program participation) toward the award of contracts during the evaluation of competitive offers.

- (2) Mentors may receive credit toward attaining subcontracting goals contained in their FAA subcontracting plan(s) for Mentor-Protégé participation.

- (3) Costs incurred by a mentor to provide developmental assistance (i.e., technical or managerial) described in Section 1.12 are allowable as indirect costs (appropriate documentation must be provided) unless the contract contains a line item specifically for the Mentor-Protégé Program. A ceiling on allowable developmental costs must be established at time of contract award.

- (4) Procurements may be set-aside exclusively for competition among firms that are participants in the FAA Mentor-Protégé Program.

6 *d. Review and Approval on Mentor-Protégé Application and Agreement.*

~~(1)~~(1) The Mentor-Protégé application and agreement is reviewed by AAP-20. The review should be completed no later than 30 days after receipt. AAP-20 should provide a copy of the submitted information to the cognizant FAA service team and Contracting Officer for a parallel review and concurrence.

- (2) Upon approval of the agreement, the mentor may implement the developmental assistance program.

- (3) An approved agreement must be incorporated into the mentor or protégé firm's award (for example: a contract, blanket purchase agreement, purchase order, memorandum of agreement, memorandum of understanding, etc.). It should be added to the subcontracting plan in contracts which contain such a plan.

~~(2)~~(4) If the application is disapproved, then the mentor may provide additional information for reconsideration. The review of any supplemental material should be completed within 30 days after receipt by ~~the SBDPG~~AAP-20. Upon finding

deficiencies that

FAA considers correctable, ~~the SBDPGAAP-20~~ should notify the mentor and request information to be provided within 30 days that may correct the deficiencies.

~~7~~ e. Additional Mentor-Protégé Program guidance is located on the AAP-20 website.

~~g.~~ **8. Joint Ventures** Revised ~~10/2018~~1/2021

4 a. *Small Business Exception to Affiliation.* A joint venture of two or more business concerns may submit an offer as a small business without regard to affiliation provided that each concern is small under the size standard corresponding to the NAICS code assigned to the contract, provided:

- (1) The procurement qualifies as a “bundled” requirement; or

- (2) The procurement does not qualify as a “bundled” requirement, and:

- (a) For a procurement having a receipts based size standard, the dollar value of the procurement, including options, exceeds half the size standard corresponding to the NAICS code assigned to the contract; or

- (b) For a procurement having an employee-based size standard, the dollar value of the procurement, including options, exceeds \$10 million.

5 b. *Mentor-Protégé Exception to Affiliation.* A joint venture between a protégé firm and its approved mentor will be deemed small provided the protégé qualifies as small for the size standard corresponding to the NAIC code assigned to the procurement. FAA approved Mentor-Protégé Program joint ventures are acceptable and/or Small Business Administration approved Mentor-Protégé Program joint ventures are acceptable.

6 c. *Subcontracting Limitations.* The subcontracting limitations specified in AMS Clauses 3.6.1--7, Limitations on Subcontracting and 3.6.1-12 Notice of Service-Disabled Veteran Owned Small Business Set-Aside, are applicable to Small Business Joint Ventures. A joint venture awarded a contract as a prime contractor must perform work according to the conditions and percentages detailed in AMS Clause 3.6.1-7 or 3.6.1-12 as applicable.

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7 d. *Socially and Economically Disadvantaged Businesses (~~SDB~~SEDB(8(a)) Exception to Affiliation.*

- (1) If approved by the Small Business Administration (SBA), 8(a) participants may enter into joint venture agreement with one or more small business concerns, whether they be 8(a) participants or not, for the purpose of performing a specific 8(a) contract.

- (2) A joint venture of at least one 8(a) concern and one or more other business concerns may submit an offer as a small business for a competitive 8(a) procurement as long as each are considered small under the size standard corresponding to the ~~NAIC~~NAICS code assigned to the SIR, provided:

- (a) The size of at least one 8(a) Participant to the joint venture is less than one half the size standard corresponding to the ~~NAIC~~NAICS code assigned to the contract; and

- (b) For a procurement:

- (i) Having a revenue-based size standard, the procurement exceeds half the size standard corresponding to the ~~NAIC~~NAICS code assigned to the contract;

or

- ~~(i)~~(ii) Having an employee-based size standard, the procurement exceeds \$10 million.

- (3) For single source and competitive 8(a) procurements that do not exceed the dollar levels identified above, an 8(a) Participant entering into a joint venture agreement with another concern is considered to be affiliated for size purposes with the other concern with respect to performance of the 8(a) contract. The combined annual receipts or employees of the concerns entering into the joint venture must meet the size standard for the NAIC code assigned to the 8(a) SIR or contract.

~~(g)~~ (e) *Service-Disabled Veteran Owned Small Businesses (SDVOSB) Exception to Affiliation.*

- ~~(1)~~ (1) An SDVOSB may enter into a joint venture agreement with one or more other small business concerns for the purpose of performing an SDVOSB contract.

- ~~(2)~~ (2) A joint venture of at least one SDVOSB and one or more other business concerns may enter submit an offer as a small business for a competitive SDVOSB procurement, so long as each concern is small under the size standard corresponding to the NAICS code assigned to the SIR, provided:

- (a) For a procurement having a revenue-based size standard, the procurement exceeds half the size standard corresponding to the NAICS code assigned to the contract; or

- (b) For a procurement having an employee-based size standard, the procurement exceeds \$10 million.

- (3) For noncompetitive and competitive SDVOSB procurement that does not exceed the dollar level identified above, an SDVOSB entering into a joint venture agreement with another concern is considered to be affiliated for size purposes with the other concern with respect to performance of the SDVOSB contract. The combined annual receipts or employees of the concerns entering into the joint venture must meet the size standard for the NAICS code assigned to the SDVOSB SIR or contract.

h. 9 Tiered Evaluations ~~Added 7/2016~~Revised 01/2021

Refer to AMS guidance on tiered evaluations at T3.2.~~2A.92.3~~B.7 for more information.

B Clauses Revised 10/2006

[view contract clauses](#)

C Forms

~~[view procurement forms](#)~~[view procurement forms](#)